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UNITED STATES INCOME TAX LAW

SIMPLIFIED

FOR BUSINESS MEN

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FROM

The author,
F. A. Wyman.
28 April, 1896.

With the compliments of

The Author

UNITED STATES

Income Tax Law

SIMPLIFIED

For Business Men

THIRD EDITION, ENLARGED AND REVISED

By FERDINAND A. WYMAN of the Suffolk County, Massachusetts, Bar

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PRICE, ONE DOLLAR

1895

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The Author

PREFACE TO THIRD EDITION.

The especial aim of this book is to help tax-payers make out their returns. Of the justice or injustice, the validity or invalidity, of the various provisions there is to be found herein little or no discussion.

A comparison of the blanks under this law with those under former income-tax laws shows in the items in relation to the gains, profits and income from business, as well as in other items, changes whose nature and effect cannot be determined with accuracy in advance of decisions by the Department and the Courts. Where honest doubt exists as to the meaning of any part of the law, it seems proper that taxpayers should adopt the construction most favorable to themselves until they know, or have reasonable cause to believe, that the Department or the Courts have otherwise decided.

131 DEVONSHIRE STREET,
BOSTON, MASS.,
March, 1895.

F. A. W.

VI.8222.2

RETURNS MUST BE MADE
On or before FIRST MONDAY IN MARCH.
On or before April 15th, for 1895 ONLY.

TAX MUST BE PAID
On or before FIRST DAY OF JULY.

RETURNS MAY BE SWORN TO
Before a NOTARY PUBLIC.

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PART I.

CHAPTER I.

HISTORY OF INCOME-TAX LAWS.

EUROPE.

An income tax is no novelty in finance either in this country or in Europe. For many years it has been one of the chief sources of revenue in Germany, Austria, Italy, Sweden, Denmark, Switzerland, and Great Britain.

German Empire. — The major part imposes a progressive tax on incomes. The Prussian act dates from 1851, and almost all of the other German states have since adopted similar systems. All persons having incomes in excess of $105 are divided into classes, and an annual tax is assessed upon each. The rate is graded from less than one per cent to four per cent and the style of living may be taken as a basis on which to calculate income. The Bohemian rate of income taxation is graded to ten per cent; Bremen's tax varies annually, is usually four per cent; Hamburg requires a

written declaration and the assessorship is held in high honor. The system of Saxony is the most complete and peculiar of the empire. Every species of gain is considered income and the tax is three per cent on the larger incomes. The profits of a partnership business are divided into as many shares as partners and each partner is taxed his share. If the partnership is not one of equal shares, the matter is left to the partners themselves for settlement. Principals are required to inform the taxation committee what salaries their clerks receive. Income taxation is one of the cardinal features of German finance.

Austria. — The part that income taxation plays in the other continental nations is characteristic of their financial condition. The income tax was re-enacted in 1849. For the purposes of taxation, incomes are divided into three classes. Those from trades subject to license tax and agriculture are taxed at near ten per cent; those from other professions and insurance dividends pay twenty per cent, and those from interest and invested capital surrender ten per cent. Although the exceptions to these provisions are unusually lenient, omission or falsification of returns subjects the offender to a triple tax.

Italy. — Twelve per cent, roughly modified in manner of assessment by gradation and

classification, is levied upon all incomes derived from any source whatever; one-tenth in addition is demanded by the war fund.

Denmark.— The Income Tax is limited to three per cent and is municipal. From income derived from trade sources may be deducted office expenses, taxes payable, interest on mortgages, and necessary repairs. Incomes less than $215 are exempt and moderate incomes receive abatement by scale of partial assessment. Omission of return is supplied by the Board of Assessors and a printed list is made out for public inspection. The tax is strictly collected.

Sweden.— All incomes exceeding $125 are assessed a tax of one per cent subject to slight deductions in the lower grades. Incomes from capital and labor are interpreted as all not taxable as real estate.

Switzerland.— The utmost socialistic tendency in income taxation prevails throughout the cantons. The law of the Zurich—a typical one —was adopted in 1870 by close popular vote. A most rapid progressive system is thereby instituted; a man earning $300 is assessed but one-fifth, while a man with $800 is assessed the whole. It falls that the average laborer pays two per cent, the mercantile employee five per cent, the small manufacturer ten per cent, while the wealthy capitalist is taxed twenty-five per

cent. In the Berne is made a distinction superficially fair between temporary salaries and fixed incomes from funds invested in the rate of taxation.

The system of Basle, as bold and rapid in progression as that of Zurich results that 535 persons of the highest income class pay four times as much in income taxes as 7397 persons belonging to the five lower income classes. The system of St. Galle is especially aimed at the higher incomes, while in Vaud the principle not only applies to incomes but to all taxable property. The Swiss have tried in its full extent the experiment of progressive taxation of incomes.

England.—An Income Tax was first levied in 1799. All men felt that if the war must go on, the government must resort to sources of supply wider and deeper than those that sufficed for the ordinary service of the country.

Pitt in introducing the measure in Parliament said:

"We have the satisfaction to observe, that although the tax on income is to be continued during that period" (i. e. during the war), "yet every year of war entails the continuance of that tax only for one year after the conclusion of a peace. Therefore when we are about to calculate the burthens of the war, and compare them to the evils attending an insecure and

dishonorable peace, let us ask ourselves the question: Shall we pay for another year a tax of ten per cent on income? Shall we by that comparatively small sacrifice save ourselves and our posterity from future burthens? Or shall we by want of energy and public spirit increase our difficulties and furnish our enemies with the only advantages they can have over us?"

And to assist the measure, Pitt, Dundas, the Speaker and two chief Justices subscribed each $10,000 per annum in lieu of assessment. To mitigate the arbitrary character of the tax the assessment was intrusted, not to the officers of the Revenue, but to Commissioners elected by popular suffrage. The law was repealed in 1816, after the close of the Napoleonic wars.

In 1842 it was found that for every year of the last five there had been a deficit, the sum total of which amounted to about $40,000,000, and unless a remedy was applied the deficit that year would amount to at least $12,000,000. So general and severe was the public distress, that to augment the taxation of the poor might prove not only cruel and useless, but dangerous. Peel, therefore, said in Parliament: "I propose, for a time limited, the income of this country should be called upon to contribute a certain sum."

An Income Tax law was then passed to remain for three years of about three per cent per annum on all incomes over $750. That law has remained on the statute books substantially the same until the present time. In 1851 on Hume's motion the duration was limited to one year, and it is now voted from year to year. In 1893 Great Britain derived about $66,000,000 from this source.

UNITED STATES.

An Income Tax was first instituted in the United States in 1863, and repealed in 1872. During these ten years there was collected nearly $350,000,000. The highest year being in 1866, when with $600 exempt $61,000,000 was collected from 460,170 persons. Under that law all tax payers were required to make a return, and it is stated by good authorities that had this tax been retained our national debt would have been paid before this.

The wealthiest class in the United States is vastly richer than the wealthiest class in Great Britain. The average annual income of the 100 wealthiest Englishmen is about $450,000, and of the 100 wealthiest Americans is about $1,200,000. The earnings of four-fifths of American families do not average $500 per annum.

It is expected that under the 1894 law,

85,000 persons will have to pay $15,000,000 per annum on income, and that the corporation and inheritance tax will amount to another $15,000,000, and it is estimated that it will cost about two per cent to collect the same.

Constitutionality.

The United States Supreme Court said in 1879: . . . "when this court is called on in the course of the administration of the law to consider whether an act of Congress, or of any other department of the government, is within the constitutional authority of that department, a due respect for a co-ordinate branch of the government requires that we shall decide that it has transcended its powers only when that is so plain that we cannot avoid the duty.

In such cases it is manifestly the dictate of wisdom and judicial propriety to decide no more than is necessary to the case in hand. That such has been the uniform course of this court in regard to statutes passed by Congress will readily appear to any one who will consider the vast amount of argument presented to us assailing them as unconstitutional, and he will count, as he may do on his fingers, the instances in which the court has declared an act of Congress void for want of constitutional power."

It was held by the United States Supreme

Court, in 1880, that the law assessing a tax upon gains, profits, and incomes — upon which the present law is based — was constitutional, as these were not direct taxes but were excises as provided for by the Constitution in Article I, Section 8, which says:

"The Congress shall have power to lay and collect taxes, duties, imports, and excises, to pay the debts and provide for the common defence and general welfare of the United States."

CHAPTER II.

I.

Principles of Construction.

There is no presumption that Congress followed the construction put on a previous act by the Commissioners of Internal Revenue. Savings Bank *v.* U. S., 19 Wall., 227.

The authority of the Commissioner of Internal Revenue to issue orders, regulations and instructions, is subject to the condition necessarily implied, that they must be consistent with the statutes which have been enacted by Congress. He may establish regulations in execution of, or supplementary to, but not in conflict with, the statutes defining his powers or conferring rights upon others. U. S. *v.* Symonds, 120 U. S., 46.

The construction by a department is to be taken into account only when there is doubt as to the construction of the law. U. S. *v.* Graham, 110 U. S., 219.

If there is doubt as to the construction of the law, the doubt will be resolved in favor of the taxpayer. Hartranft *v.* Wiegmann, 121 U. S., 616. American Net & Twine Co. *v.* Worthington, 141 U. S., 474.

But if a liability to a tax exists under the statute, the provisions intended to prevent frauds upon the revenue are considered as enacted for the public good and to suppress a public wrong, and, therefore, although they impose penalties or forfeitures, are not to be construed, like penal laws generally, strictly in favor of the defendant, but they are to be fairly and reasonably construed, so as to carry out the intention of the legislature. U. S. *v.* Stowell, 133 U. S., 12.

Under the act of 1867, which had similar words, it was held in Gray *v.* Darlington, 15 Wall., 66, that the statute looked, with some exceptions, for subjects of taxation only to annual gains, profits, and income. That the tax was to be assessed upon the annual products or income of one's property or labor, or such gains or profits as may be realized from a business transaction begun and completed during the preceding year. That the exceptions were those expressly mentioned, as gains from sales of real estate, etc., and those from trade or commerce which for their successful prosecution often required property to be held over a year. That except in such cases the statute only applied to such gains, profits, and income as were strictly acquisitions made during the year preceding that in which the assessment was levied and collected.

II.

Duration of the Law.

The tax on income of *persons* is to be levied until 1900, when the law in this respect will expire by limitation. Sec. 27.

The tax on income of *corporations* is not limited in time, and will be levied until the law is repealed. Sec. 32. See also R. R. Co. *v.* Rose, 95 U. S., 78.

III.

Amount of the Tax.

1. On citizens 2 per cent on the excess above $4000.
2. On non-residents who file a list as provided for by Sec. 31, 2 per cent on the excess above $4000.
3. On non-residents who file no such list, 2 per cent on all income.
4. On corporations, whether resident or non-resident, 2 per cent on all income.
5. On partnerships, nothing *as* partnerships. The individuals are taxed as above stated.

IV.

What Amount of Income is Exempt.

1. $4000 of the income of each citizen or resident.

2. $4000 of the income of each non-resident who files a list as provided for by section 31.

3. $4000 only of the total income of each family composed of one or both parents and one or more minor children, or composed of husband and wife.

4. $4000 only of the total income of two or more wards who are comprised in one family and have joint property interests.

5. $4000 of the income of each ward where two or more wards are comprised in one family but have separate property interests.

6. $4000 of the income of each ward where two or more are in separate families but have joint property interests.

See pages 90-93 for the above six exemptions.

7. Interest on certain bonds of the United States.

See page 88.

8. Interest on State, county, or municipal bonds. (?)

See page 88.

9. Salaries due to State, county, or municipal officers.

See Sec. 33, and Regulations, page 158.

10. Not any of the income of resident or non-resident corporations subject to tax.

CHAPTER III.

I.

WHAT PERSONS MUST PAY THE INCOME TAX.

1. EVERY CITIZEN OF THE UNITED STATES,—
   Whether residing at home or abroad who has gains, profits, and income in excess of $4000 per annum estimated as hereinafter stated.

2. EVERY RESIDENT OF THE UNITED STATES,—
   Who has gains, profits, and income in excess of $4000 per annum estimated as hereinafter stated.

3. EVERY NON-RESIDENT,—
   On gains, profits, and income from all property owned and from every business, trade, or profession carried on in the United States, estimated as hereinafter stated, unless a list is filed as provided for by Section 31.

II.

For what gains, profits, and incomes of persons must be included, and what can be deducted, see Chapter X.

III.

What the Statute States Cannot be Deducted.

1. Estimated depreciation of values.

Forbidden by Sec. 28 (page 187).

2. Losses on sales of real estate purchased within two years previous to the year for which income is estimated.

The blanks state otherwise. See page 97.

3. Amount paid out for new buildings, permanent improvement or betterments.

Forbidden by Sec. 28. See page 187.

4. Expense of growth or production of live stock or agricultural products consumed by family.

See page 186.

5. For deductions which the Courts or the Department have held inadmissible see "Deductions" in Chapter X.

IV.

What Persons Must Make Returns.

Every person of lawful age having an income of more than $3500, computed as herein directed.

All Guardians,
Trustees,
Executors,
Administrators,
Agents,
Receivers,

All Persons acting in any Fiduciary Capacity.

(Of the last named probably only those having over $3500 income. See Chapter V.)

Any person will be permited to make oath that he or his beneficiary or ward had not a taxable income of $4000 or has paid the tax elsewhere and if the proof is satisfactory he will be exempt from the tax.

V.

For what returns must contain see Chapter X.

VI.

When, Where and to Whom Returns Must be Made.

Returns for 1894 must be made on or before April 15, 1895, according to the Resolves of Feb. 21, 1895.

Returns for all subsequent years must be made on or before the first Monday of March of each year.

Returns by persons for themselves must be made to the collector, or deputy collector, of the district in which the persons resides. Sec. 29.

Returns by persons acting in any fiduciary capacity must be made to the collector, or a

deputy collector, of the district in which the person resides or does business.

Sec. 29. Perhaps this part of the section will be construed distributively, so that persons must make returns where they reside and corporations where they do business.

Returns by non-residents may be made in any district. Sec. 31.

VII.

Penalty for Neglect or Refusal of Persons to make Returns and for False or Fraudulent Returns.

1. In case of willful neglect or refusal the collector will make a list and add fifty per cent to it. See page 140.

2. In case of a willfully false or fraudulent list the collector will add 100 per cent to the amount ascertained to be due. See page 140.

The penalty for failure to make a return or for fraudulent return must invariably be imposed, and officers have no discretion in the matter. 2 Int. Rev. Rec., 36.

Even if a person makes a return within 10 days from date of the note or memorandum given under Section 3173, he may be liable for the penalty, since it was ruled under the former Acts, where the words were similar to these in the present Act, that the omission of a collector

to serve a notice did not discharge the delinquent taxpayer from the penalties prescribed by law for his delinquency. 1 Int. Rev. Rec., 113; 3 Int. Rev. Rec., 151.

The Regulations, page 157, state: "But the failure by persons or corporations to receive such blanks, or the failure to receive any notice that such returns should be made or that any act enjoined by law should be complied with, cannot be deemed a valid excuse for not making such return or not complying with the provisions of law in the time and manner prescribed, and will not prevent or reduce the penalties imposed by law for such failure or neglect. Persons or corporations not supplied with blank forms for annual returns should apply for them to the collector.

Under the provisions of Section 5292 of the Revised Statutes, the Secretary of the Treasury can remit penalties. He has entire discretion in this matter, and his action cannot be reviewed in any court. Dorsheimer *v.* U. S., 7 Wallace, 175.

Under the old law it was held that the penalty in case of fraudulent or underrated returns was to be assessed on the deficiency of the tax withheld, and not on the whole amount of the tax. 3 Int. Rev. Rec., 60.

CHAPTER IV.

PAYMENT BY PERSONS.

I.

When, Where and to Whom Payable.

The tax is due and payable on or before the first day of July in each year. Sec. 30.

The tax must be paid in the district in which the taxpayer's return is made to the collector or deputy collector of internal revenne. See Instructions, page 75.

II.

Penalty for Non-Payment.

Sec. 30 provides " . . . and to any sum or sums annually due and unpaid after the first day of July as aforesaid, and for 10 days after notice and demand thereof by the collector, there shall be levied, in addition thereto, the sum of five per cent on the amount of taxes unpaid, and interest at the rate of one per centum per month upon said tax from the time the same becomes due, as a penalty, except from the estates of deceased, insane, or insolvent persons."

The words "except from the estates of deceased, insane, or insolvent persons," seem to refer to death, insanity, or insolvency of the person after the return has been made.

By a payment made at any time before the expiration of ten days after the notice and demand above provided for, the penalty will be avoided. 10 Int. Rev. Rec., page 57.

See Regulations, page 165, as to the payment and service of the demand and the manner of enforcement of the payment of delinquent taxes.

The United States are not bound by any statute of limitations, unless Congress has clearly manifested its intention that they should be so bound. U. S. *v.* R. R. Co., 118 U. S., 125.

III.

Receipts Given on Payment of the Taxes.

A receipt must be given. Sec. 37.

Separate receipts must be given for each tax paid if required by the party making payment. Sec. 37.

Separate receipts may be given to guardians, trustees, agents, or other persons acting in any fiduciary capacity, for each of the wards, principals, beneficiaries for which such guardian, or other person, may be acting. Regulations, page 166.

CHAPTER V.

I.

Returns by Trustees, etc.

(1) Shall *all* guardians and trustees, executors, administrators, agents, receivers, and *all* persons acting in any fiduciary capacity make return, even if the ward or beneficiary has less than $3500 income; or

(2) Shall they make such return if the ward or beneficiary has with the income from them $3500; or

(3) Shall they only when they, as such guardian, trustee, etc., have more than $3500 income for such ward or beneficiary?

Whichever interpretation is correct, the guardian, trustee, etc., can, if the income of the ward or beneficiary is less than $3500, make "Affidavit No. 1" on page 4 of the blank for persons in some form like form number 6 on page 124.

The words taken by themselves apparently require all guardians, etc., to make a return, whatever the amount of the income. But it is only persons "having a taxable income" (Sec. 29) who are liable to a penalty, and perhaps

the words may be construed to make necessary a return only by guardians, etc., having more than $3500 income.

Under the old laws it was at first held that guardians, trustees, etc., could be allowed no exemption except upon their express statement,—made under oath,—that the minor, or beneficiary, had no other income from which the amount could be deducted. Boutwell, 258; Editorial, 1 Int. Rev. Rec., 113; Ruling, Id. 171.

In explanation of these rulings the following ruling was made, and this so far as the Int. Rev. Rec. shows settled the practice of the Department:—

"You write as follows: 'The forms for income returns are difficult of application to trustees, guardians, etc. Such persons cannot readily fill the blanks, and make the required oath, etc.' 'Where a person is trustee,' you ask, 'for a number of persons, in different regions of the country, and in different counties, must he ascertain with precision, whether they have other sources of income? and if he cannot so ascertain, must he pay the tax for the *cestui que trust* without deducting the $600 allowed? or can any modification of the oath be permitted, in case the trustee is in doubt as to their other income?"

"I reply, that no person can take oath re-

specting his or his ward's income except as to the *best of his knowledge and belief*. Few cases can arise where the trustee has not, or cannot readily obtain, information respecting the income of the cestui que trust—yet it is expected of trustees that they will use all due efforts to arrive at just estimates in this regard. Nor can a trustee conscientiously take the oath required unless he has used such efforts. The deduction of $600 should be allowed in all cases where the trustee does not KNOW of other income accruing to the cestui que trust, except the cestui que trust, be a *minor* belonging to a family, in which case the parent is entitled to but one deduction of $600 in respect of the AGGREGATE income of the family, including that of cestui que trust, or except the cestui que trust be a WIFE, in which case a similar provision is made."

"Where a trustee knows that a cestui que trust has (for example) $400 income, outside of that derived from the trust, but $200 deduction should be allowed from income reported by the trustee."

To Assessor Ritchie, May 13, 1865.

Int. Rev. Rec., Vol. 1, page 181.

If this ruling is followed by the Department, a guardian, trustee, etc., who has as such fiduciary more than $3500 income, must make

a return. He must pay a tax on the whole amount and will be allowed no exemption unless he ascertains the amount of the other income of his ward or beneficiary. He must, as the above quoted ruling states, "use all due efforts to arrive at just estimates" of such other income, through the ward, or beneficiary, or otherwise. If he finds the total income of the ward or beneficiary is less than $4000, he can make oath according to Sec. 29 to that effect, and if the collector or deputy collector shall be satisfied of the truth of the declaration, such person will be exempt from the tax. This oath will be in effect, although not in form, to the "best of his knowledge and belief."

If the income of the ward or beneficiary outside of that derived from the trust is $4000, or more, the ward or beneficiary would be exempted $4000, and the guardian, trustee, etc., would be allowed no exemption.

If the income of the ward or beneficiary other than that derived from the trust is less than $4000, the difference between the amount of this other income and $4000 is the amount which the guardian, trustee, etc., can deduct. For example, if the trustee has an income of $5000, and the beneficiary has other income of $1000, the difference between $1000 and $4000 is $3000, which the trustee could deduct from

$5000, leaving $2000 on which the trustee would pay a tax.

It seems that it would be sufficient, to use the example before given, to add in item 1 of Deductions after "Exempt by law," something like the following:

(All gains, profits and income of the beneficiary outside of this trust amount to $1000) $3000.

In the oath on page 3 of the blank [p. 123] the trustee swears: ". . . . and that each item stated under the head of Deductions is correct, and he is honestly and truly entitled to make all the deductions from his income for said year as specifically stated in detail . . ." Therefore, he swears by the above that "All gains, profits, and income of the beneficiary outside of this trust amount to $1000."

The ward or beneficiary where his total income, held in trust or otherwise, exceeds $3500, must make a return unless the guardian or trustee, etc., has made affidavit that the total income is less that $4000, etc. If his guardian or trustee has $3500 income or less and so may not be obliged to make a return, the ward or beneficiary should return the whole income and will be allowed the full deduction.

If the guardian or trustee has more than $3500 income, it would seem sufficient, to use

the example before given, for the ward or beneficiary to add in item 1 of Deductions after "Exempt by law" something like the following: [There was deducted by John Doe, Trustee, under this item, $3000] $1000."

II.

Payments by Trustees, etc.

Separate receipts may be given to guardians, trustees, agents, or other persons acting in any fiduciary capacity, for each of the wards, principals, beneficiaries for which such guardian, or other person, may be acting.

See Regulations, page 166.

CHAPTER VI.

I.

What Corporations must Pay.

Every Corporation, Company or Association doing business for profit in the United States, — but not including partnerships,—

No matter how created or organized,—

except

States,
Counties,
Municipalities,
Corporations purely
Charitable,
Religious,
Educational.

Fraternal Societies, on the lodge system and providing for life and other benefits.

On Funds for Charitable, Religious or Educational Purposes.

BUILDING AND LOAN ASSOCIATIONS which make loans only to their Shareholders:

Except also

SUCH SAVINGS BANKS, SAVINGS INSTITUTIONS OR SOCIETIES AS—

1. Shall have no stockholders or members except depositors, and no capital except deposits;

2. Shall not receive deposits to an aggregate amount, in any one year, of more than one thousand dollars from the same depositor;

3. Shall not allow an accumulation or total of deposits by any one depositor, exceeding ten thousand dollars;

4. Shall actually divide and distribute to its depositors, ratably to deposits, all the earnings over the necessary and proper expenses of such bank, institution or society, except such as shall be applied to surplus;

5. Shall not possess, in any form, a surplus fund, exceeding ten per centum of its aggregate deposits.

SUCH SAVINGS BANKS, SAVINGS INSTITUTIONS OR SOCIETIES

composed of members who do not participate in the profits thereof and which pay interest or dividends only to their depositors.

Except also

ON THAT PART OF THE BUSINESS OF ANY SAVINGS BANK, INSTITUTION, OR OTHER SIMILAR ASSOCIATION

having a capital stock, that is conducted on the mutual plan solely for the benefit of its depositors on such plan, and which shall keep its accounts of its business conducted on such mutual plan separate and apart from its other accounts.

Except also

ANY INSURANCE COMPANY OR ASSOCIATION

which conducts all its business solely upon the mutual plan, and only for the benefit of its policy holders or members, and having no capital stock and no stock or shareholders, and holding all its property in

trust and in reserve for its policy holders or members;

Except also

ON THAT PART OF THE BUSINESS OF ANY INSURANCE COMPANY

having a capital stock and stock and shareholders which is conducted on the mutual plan, separate from its stock plan of insurance, and solely for the benefit of the policy holders and members insured on said mutual plan, and holding all the property belonging to and derived from said mutual part of its business in trust and reserve for the benefit of its policy holders and members insured on said mutual plan.

But collectors are enjoined to examine carefully the articles of association, or charter, and business methods of all corporations claiming exemption, and to collect tax from all operating on any plan not specifically exempted by law.

II.

For what gains, profits or income must be included, and what can and cannot be deducted, see Chapter XI.

III.

What Corporations must Make Returns.

1. Every Corporation acting in a Fiduciary capacity, which must make a return of the amount of income, gains and profits of any minor or person for whom it acts.

   But it will be exempt if it makes oath that the income of its beneficiary did not amount to $4000, or has been elsewhere paid.

2. Every Corporation, Company or Association doing business for profit, except those exempt from taxation by this act.

IV.

For what returns must contain, see Chapter XI.

V.

When, Where and to Whom Returns Must be Made.

Returns for 1894 must be made on or before April 15, 1895. Resolve of Feb. 21, 1895.

Returns for all subsequent years must be made on or before the first Monday of March of each year. Sec. 3173, and Sec. 29.

Returns by corporations for themselves, or as fiduciaries, must be made to the collector, or deputy collector of the district where the principal office or place of business in the United States of the corporation is located. Sec. 3173, and Sec. 29.

VI.

Penalty for Neglect or Refusal of Corporations to make Returns and for False and Fraudulent Returns.

1. Section 3176 of the Revised Statutes as amended by this act makes it the duty of the collector to ascertain the tax and add to it fifty per cent for refusal or neglect, except in cases of absence or sickness, and one hundred per cent in case of a willfully false or fraudulent return.

2. Sec. 32 of this act provides that in case of neglect or refusal to make returns the corporation shall forfeit as a penalty the sum of one thousand dollars and two per centum on the amount of taxes due for each month until the same is paid.

See Regulations, page 149, and VII of Chapter III.

CHAPTER VII.

Payment of the Tax by Corporations.

When, Where and to Whom Payable.

The tax is due and payable on or before the first day of July in each year. Sec. 30, 32.

The tax must be paid in the district in which the taxpayer's return is made to the collector or deputy collector of internal revenue. See Instructions, page 75.

Penalty for Non-Payment.

Sec. 30 provides " . . . and to any sum or sums annually due and unpaid after the first day of July as aforesaid, and for 10 days after notice and demand thereof by the collector, there shall be levied, in addition thereto, the sum of five per cent on the amount of taxes unpaid, and interest at the rate of one per centum per month upon said tax from the time the same becomes due, as a penalty, except from the estates of deceased, insane, or insolvent persons."

By a payment made at any time before the expiration of ten days after the notice and demand above provided for, the penalty will be avoided. 10 Int. Rev. Rec., 57.

See Regulations, page 165, as to the payment and service of the demand and the manner of enforcement of the payment of delinquent taxes.

Receipts Given on Payment of the Taxes.

A receipt must be given. Sec. 37.

Separate receipts must be given for each tax paid if required by the party making payment. Sec. 37.

Separate receipts may be given to guardians, trustees, agents, or other persons acting in any fiduciary capacity, for each of the wards, principals, beneficiaries for which such guardian, or other person, may be acting. Regulations, page 166.

These provisions will no doubt be held to apply to corporations.

PART II.

CHAPTER VIII.

I.

Requirements as to Book-Keeping.

The law is entitled an *Act to reduce taxation, to provide revenue for the Government, and for other purposes.* Judged from the effects, among the other purposes would seem to be the purpose of instituting a uniform system of book-keeping throughout the United States.

Section 36 provides, "*It shall be the duty of every corporation, company, or association, doing business for profit, to keep full, regular and accurate books of account, in which all transactions shall be entered from day to day in regular order.*"

The Treasury Regulations provide (page 148) that the books required by this section shall be so kept, arranged, and balanced as to show the gross receipts, operating or business expenses, and net profits of the corporations, associations, or companies for each calendar year, beginning on the 1st day of January, and ending on the 31st day of December of said year.

The Regulations also provide (page 156), "The annual return of merchants and

manufacturers of their gains, profits, or income should cover the business of the year from the 1st day of January to the 31st day of December in the year for which return is made, and their books of account, stock records, and inventories should be kept and taken at such time and in such manner as to clearly show the gross profits, business expenses, net profits or income for the year ending at the close of business hours on the 31st day of December."

Sec. 36 and the Regulations (page 149), above quoted, states that corporations *shall* keep books and keep them so as to show certain things. The Regulations above quoted from page 156, assumes that merchants and manufacturers *will* keep books, and states that they *should be* kept so as to show the same things as they say the corporation books *shall* show. There is nothing in the Statutes or Regulations which *requires* any *person* to keep books. Questions 3 on page 3 of blanks, for persons ask if you "kept books of account." If you kept books, they would probably not accept a return based on "guessing." (See question 4 on page 3 of blanks for persons.) If your business is such that no books are kept, you will necessarily be obliged to estimate your income, but the officers of the department may in such a case ask for an interview with you as to the way in which you estimate your income.

You can make out your returns if you keep your books by single entry. But "single entry book-keeping" is really only a lot of memoranda not entitled to the name of book-keeping and leads to many errors, remaining uncorrected, and of much loss to the merchant or manufacturer. You never hear of a man becoming dissatisfied with double-entry book-keeping and going back to the memoranda plan called single-entry. There seems to be a mystery to the uninitiated about double-entry, when as a matter of fact *any* man can learn it much more quickly and easily than he can learn to play even a fair hand of whist.

II.

Profits by Estimated "VALUES."

Probably most sets of books in the United States to-day are kept so as to show the profit or loss in the business by *values* somewhat after this manner:—

I.	Value of merchandise on hand Jan. 1, 1894 . .	$25,000
	Merchandise purchased during the year 1894 . .	50,000
	Total	$75,000
II.	Amount of sales of merchandise in 1894 . . .	$60,000
	Value of merchandise on hand Dec. 31, 1894 . .	30,000
	Total	$90,000

Deduct first items (I) from second items (II) and you have $15,000, which amount is called and entered upon the books as "gross profits from sales of merchandise." This way is based upon the plan of making an *estimated* valuation of merchandise on hand at each stock-taking period. The amount actually realized from the stock thus estimated probably never exactly corresponds with this estimated value, so that with such a plan the books do not show the *real* gains for the year.

It would seem possible in any business, either of manufacturing or trading, to devise some plan to do away with these annual "guessing bees," called taking account of stock at values, and to institute the true way of arriving at the profit for the calendar year.

The falsity of the "guessing-bees'" plan, was vividly called to the attention of the author in January, 1881, in the following manner: Good middle weight Buenos Ayres sole leather was selling in May, 1879, for 19 cents per pound. In December, 1879, the same leather sold for 31 cents per pound, and in December, 1880, the price was 24 cents per pound.

A large manufacturer of boots bought heavily in May, 1879 and had on hand a large stock of leather. When he took account of stock January 1, 1880, his books showed a

"profit" of about $50,000. When he took account of stock January 1, 1881, he found that his "profits" for 1880 were only about $5000. As he had done about the same amount of business in 1880 as in 1879 he thought that some one had been stealing from him during 1880 and the author was called in to examine into the matter. The first thing done was to compare the stock takings for 1879, 1880, 1881, and prices guessed at, and the conclusion was arrived at that he did not make the profit shown upon his books in January, 1880.

Unfortunately for his creditors the manufacturer thought in January, 1880 that he was getting wealthy fast enough to change his style of living, and in 1880 he lived at a $50,000 per annum income rate.

III.

Profits by "COST" Is the Government Way.

Under the law "*estimated depreciation*" of values cannot be deducted by persons, and of course no one would desire to pay an income tax based upon an estimated appreciation of values.

The way laid down by the Government officials in their blanks will give the *actual* gains for the year.

This, broadly stated, is as follows:—

A. Return your gross (or total) receipts,

gross credits, gross earnings, and gross gains from the business of the year.

B. Return COST of material sold during the year, the price of which is reckoned under A.

C. Return business expenses of the year.

D. By deducting the amount of B and C, added together, from A, you will have the true profit from the business

These are the items of your business required in your return. You are at liberty to ascertain them in any way you may find to be most practicable,—the Department prescribes no particular way. The following statements as to methods of book-keeping are intended only as suggestions. Each person can best tell from his knowledge of the peculiarities of his own business the easiest and most practicable mode of book-keeping for this purpose.

The law will require you to be fair to yourself and fair to the Government. The Department will not require you to attempt what is impossible or impracticable or unreasonable. But on the other hand it is right and reasonable, if not necessary, that there should be a certain amount of uniformity in book-keeping for the information and protection of the Government. The principal doubt, difficulty and expense will be in the adaptation of the book-keeping so as to show the required facts; the book-keeping will be as easy under the new way as under the old.

IV.

Necessity of an Account of Stock.

An account of stock on hand should be taken at the close of each calendar year, not to determine the value of the stock but its *cost*, unless the identity of the articles sold is so kept on your books that you can get at the *cost* of the articles sold during the year. As the law was made after December 31, 1893, the stock on hand on that day and its cost will have to be estimated as accurately as practicable.

If an account of the cost of the stock on hand at the close of business on Dec. 31st of each year is taken, the difference between the cost of the stock on hand one year and the cost of that stock on hand the same time the next year will give the cost of the part of that stock sold during the year, which can be deducted under item 9 of Deductions on blanks for persons and paragraph 7 of item 12 of blanks for corporations.

The cost of the goods or material purchased during the year on hand at stock-taking time at the end of the year deducted from the cost of all the goods or materials purchased during the year will give the cost of the new goods or material sold during the year, which can be

deducted under item 5 of Deductions on blanks for persons and paragraph 8 of item 12 of blanks for corporations. But see V. below.

If it is ruled that item 1 (gross receipts, etc.) does not include goods sold in one year, where payment is not to be made until the next year, there would be a further deduction of the cost of goods so sold.

V.

The Separation Necessary in an Account of Stock.

By the ordinary business man "materials purchased for manufacture or resale" would not be called an EXPENSE of the business but it is expressly provided by the statute (Sec. 32) that such purchases shall be so considered with reference to corporations.

There might seem, at first sight, no good reason why separate items should be required for deductions of cost of materials purchased during the year for which the return is made, and previous to that year. But if two items are required, the reason may be this: As has just been stated, it is practically impossible in certain cases to get at the exact cost of materials on hand at stock-taking. If persons or corporations each year were allowed to estimate the cost of all the materials on hand, and take this

from the amount on hand plus the cost of the entire purchases during the year, as the cost of materials sold during the year, there would be no opportunity in case of an honest error of judgment to discover and correct it, or for it to be corrected; and in case of a deliberate under-estimate of stock on hand (which would of course make the *deduction* larger) no means of detection from the returns.

If, however, a separate account of the stock of the various years is kept, the cost of the stock bought in any one year will be deducted as soon as that stock is all sold, and from the returns from year to year the Department can see what disposition is being made of each year's stock.

By such separation of items, therefore, an honest error of judgment can be corrected, and a fraudulent estimate can be detected.

This item and item 12, paragraph 7, blank for corporations each reads as follows: "Cost price of material purchased for manufacture or resale, not increasing stock on hand Dec. 31, 1893." Under these items the Department may intend that there shall be included the cost of all material that is to be deducted. What should be somewhere deducted is the cost of materials which have been sold and the selling price which is included under item 1

(gross receipts, earnings, etc.). Therefore all material purchased and sold in 1894 should of course be deducted; and the cost of the material on hand Dec. 31, 1893, and sold in 1894 should also be deducted. It is evident that not all of the "cost of material purchased for manufacture or resale" in 1894, which was on hand Dec. 31, 1894, can be deducted. Of this "cost price, etc.," there can be deducted an amount equal to the cost of stock on hand Dec. 31, 1893 sold in 1894; this is not increasing stock on hand Dec. 31, 1893.

If this should be the construction of the Department, all deductions for material would be made under these items reading "Cost price," etc. There would be the same need for keeping a separate account of the stock for various years, and the statements elsewhere made in this book in reference to such separate accounts would apply. So far as the Department is concerned, it would seem better for them to have the stock separated so as to be able from year to year to determine from the returns the disposition made of each year's stock, rather than to have one lump sum in each return for all material sold.

So far as is practicable, goods or materials should be so marked, separated, or otherwise kept, as to show at the end of each year what were bought during the year, together with the

cost, and what before that time, together with the cost.

Where goods are marked, all need not be marked, as most materials and goods would be disposed of during the year. Suppose goods on hand Dec. 31, 1894 were marked. Then if the goods on hand Dec. 31, 1895, not already marked, are marked in a different way, there will thus be separated the "old" and the "new" stock.

VI.

What Accuracy in Identification by Sales is Desirable.

In some lines of business the exact cost of the particular articles on hand on the 31st day of December of each calendar year can be determined. In such lines it would seem a good plan to mark each article dealt in with some arbitrary number and have the same number marked upon the invoice received when the merchandise is purchased. A practical way would be to mark, with a hand-stamp consecutively numbering machine, both the invoice and the article. For example, if the invoice was for 1 dozen brushes, stamp the invoice 1281 then stamp each brush 1281, or stamp the box containing the brushes 1281. When you take account of stock the next December 31st to make up your income

return you can readily ascertain the cost of the brushes that have been sold during the preceding calendar year and of those that remain on hand.

This plan would also allow you at any time to go to the shelf where the brushes happened to be and immediately from your numbered invoice find the cost price of the brush. The number being an arbitrary one neither your customers nor your salesmen would be able to get at the cost price. It would be a good idea to change at the beginning of each year the color of the ink used on the machine.

With your stamp machine you could stamp on gummed paper the numbers and attach these to any articles that you might not wish to stamp upon with the machine.

It might be the best way in some kinds of business to open an account in your books to cover merchandise on hand on the 31st day of December of each year and another account to cover merchandise purchased during each year.

It might, also, be well to open accounts to cover such of the items on the blanks as will apply to your income, i. e., "Dividend Account," "Interest Account," "Repair Account," etc.

In the lumber business you could easily mark the end of each stick of timber by a stencil, or even by a brush of colored paint,

and by changing the color each year you could at a glance keep run of old and new stock. As in the retail lumber business you turn your stock about six times a year, you would only have to look out and mark at stock-taking time about 1-6 of the amount of lumber that you handle. If you run your business on business principles, you would not pile new boards on top of old ones, but would sell the old ones first and make a new pile. By having the old stock marked as herein suggested, you would be able to carry out this plan.

If you are in the retail business selling for cash and wish to keep account of each transaction you could have the slips that are made out by the salesmen have some arbitrary words, or marks, such as the words "red," "green," "blue," printed upon them in small letters so that if a brush was sold for 50 cents cash and you used red ink in the year 1894 he could cross out the word "red" with one stroke of his pencil and you would be able in entering up your cash to distinguish between goods on hand December 31st, 1893 and goods purchased during the year 1894. If you sold on credit you could have the same system and in entering up the charges to your customers you could have on your sales book 3 columns for dollars and cents, as follows:

SALES OF MERCHANDISE.

JOHN DOE.	PREVIOUS.		CURRENT.		TOTAL.	
1281. 1 Brush. . .	$0	50				
2867. 1 " . .			$0	50	$1	00
	$0	50	$0	50	$1	00

At the end of the month you could post the footings in your ledger from the sales book and you would be able to keep run from month to month of the amount of old and new goods that you were selling. The cause of many mercantile failures can be traced to a failure to dispose of old stock, and by the information you get from month to month you could instruct your salesman to push the "red" or old goods.

Your stock book you could keep in some such way as is indicated on the form on pages 56, 57.

If you do not wish to make an entry for each transaction (for example, where you keep a cash register) the account of stock taken as stated above, will enable you (where you have kept the stock of different years so that they can be identified) to get at the cost of "old" and "new" material to be deducted.

ACCOUNT OF ('93) STOCK ON HAND AND BUSINESS, DECEMBER 31st,

NUMBER INVOICE.	'98	'97	'96	'95	'94	'93	DESCRIPTION.
1281				3*	6*	12*	Brushes,
1427					3*	12*	Brooms,
2334						12*	Books,

* For these figures use the same color of ink that you have used on your stamp machine for the year. This method saves *rewriting* the description of the article each year and obviates the necessity of referring to your invoices when taking account of stock that was on hand at the close of the previous calendar year. It would seem to be a good idea to have the account stock book made in "flats," i. e., pages facing

COST PRICE OF SAME AT THE CLOSE OF (1893), (1894), (1895).

1893		1894		1895		1896		1897		1898	
$8	00	$4	00	$2	00						
1	20		30								
12	00										

each other. Bankers would of course use the stock certificate or bond number instead of the arbitrary number used by merchants. In the case of the sale of railroad or other stock and the purchase later of other stock in the same corporation you would remember that the idea of stock taking is to identify the *article*.

VII.

Estimation of Cost by Manufacturers.

The statute does not allow deduction for "estimated depreciation of values." Nothing, however, is said in the law or the regulations which forbids an estimate of the *cost* of goods or materials. Where goods or materials are bought by the lot, or where they are changed in form, by cutting or otherwise, it is not possible thereafter to determine the exact cost of the parts,—they have to be estimated. Estimation of expense was allowed under the old law, e. g.:— By physicians, so much of the expense of keeping a horse as was referable to the business. 7 Int. Rev. Rec., 59; by person, so much of season ticket from home to business and returning as was fairly chargeable to business expenses. 11 Int. Rev. Rec., 172; in changes on buildings, what was chargeable to repairs and what to betterments. 5 Int. Rev. Rec., 130.

At first sight a manufacturer may say that it is impossible to get at the cost of the materials in process, yet if you take up any article in his factory one-third or one-half finished and ask him if he can tell what the material in it cost, he would feel insulted to have you even think that he did not know enough about his own business to tell with

reasonable accuracy the cost at any stage of manufacture. Suppose he was making incandescent electric lamps and you took in your hand one-half finished and asked him the cost of the material, he would immediately reply:

Base,	2 cents
Platinum Wires,	3½ "
Glass Bulb,	2½ "
Carbon,	½ "
Plaster and Cement,	½ "
	9 "

If he was a manufacturer of dynamos and you pointed one out to him partly made, he would say:

Base, 600 lbs. at 3c.	$18.00
Shaft, 60 lbs. at 5c.	3.00
1200 Laminated Plates,	48.00
Armature Head, 50 lbs. at 3c.	1.50
60 lbs. Copper Wire at 15c.	9.00
	$79.50

Remember this all the time you are at work on your income returns: If you buy a horse for $100 and sell it during the year for $150 and get your pay, you make a gross profit of $50. If you have it on hand at the end of the year, you may call it worth $10,000 as a trotter, or $16 for sale to a fertilizer factory; but you have not made or lost a dollar. In

other words, you do not make or lose until you realize from the sale.

A shoe manufacturer, for example, could estimate the *cost* of material somewhat after the following example:

Purchased in 1894, 5000 Sides of Sole Leather, 70,500 pounds, $12,337.50.

Estimated Cost of Material from above Leather, on hand Dec. 31, 1894:

32,050	pairs	Outersoles, at 9 cents,	$2884.50
3,300	"	2nd Outersoles, at 7 cents,	231.00
10,650	"	Extra Outersoles, at 10 cents,	1065.00
11,750	"	Children's Outersoles, at 4½ cents,	528.75
9,900	"	Women's Innersoles, at 4 cents,	396.00
2,450	"	Misses' Innersoles, at 3 cents,	73.50
3,600	"	Children's Innersoles, at 2 cents,	72.00
2,900	lbs.	Top-lifts, at 20 cents,	580.00
2,600	"	Cut-lifts, at 13 cents,	338.00
			$6168.75

Cost of Material purchased and sold in 1894, $6168.75.

This example is on the basis that you have on hand just one-half of the stock purchased in 1894.

In a similar way an estimate could be made of the cost of the stock purchased before 1894 on hand Dec. 31, 1894.

VIII.

Estimation of Cost by Dealers in Coal, Grain, etc.

Where as in the case of coal, grain, etc., different lots are put into the same receptacle so as to form part of a common mass it will be, of course, impossible at the end of the year to determine the amount of the stock sold during the year that was on hand at the beginning of the year. The cost of the part sold during the year can, however, be estimated as in the following example. It will be necessary, of course, to get at the amount and cost of the coal on hand Dec. 31, 1893 as nearly as practicable.

Coal on hand Dec. 31, 1893,	2000	tons,	costing	$7000
Coal purchased in 1894,	3000	"	"	9000
	5000	"	"	$16,000

The question to be determined is the cost of the amount sold. The amount sold was 4000-5000ths or 4-5ths of the above total, which was $16,000. This equals $12,800, which is the cost of the amount sold in 1894.

If all sales of the year 1894 are to be included under "gross receipts, etc.," this $12,-800 would be the amount deducted under item 9 on personal blanks and item 12, paragraph 7 on corporation blanks.

If, however, there should be included only amount of sales in 1894 payable in 1894 (see p. 81) from this $12,800 would be deducted cost of coal sold in 1894 payable in 1895. If for example 500 tons were so sold, there would be deducted 500-5000 or 1-10 of $12,800, or $1280. This deducted from $12,800 leaves $11,520 to be deducted as cost of material.

Although in one year the estimated cost of the goods or materials on hand will, of course, not give the exact cost, yet in a series of years the exact cost will be deducted. For example (here calling all goods to be paid for in the year):

Suppose you purchased goods or materials in 1894 which cost you $50,000. On stock-taking, Dec. 31, 1894, you find you have of this stock what, as nearly as you can get at it, cost you $20,000. The difference between $50,000 and $20,000 is $30,000, which is the amount you deduct as an expense of 1894. On stock-taking, Dec. 31, 1895, you find none of this stock bought in 1894. You therefore deduct this $20,000 under item 9 of Deductions on blanks for persons, and paragraph 7 of item 12 of blanks for corporations. You have thus in the two years deducted in all $50,000, the cost of the goods or materials. If your deduction for 1894 was too large, that for 1895 was too small, and if your deduction for 1894 was

too small, that for 1895 was too large. When you have disposed of *all* the goods, the total deductions will be the exact cost.

Similarly, if in item 1, "gross receipts" are *not* included sales where payment is not to be made during the year, whatever amount is reckoned as the cost of material sold in 1894 but not due until 1895 will have to be deducted in 1895 as that cost. Therefore any gain made in 1894 by a wrong estimate would be lost the next year.

Do not get confused in this "stock-taking at cost" plan. *You only take one article at a time.*

IX.

Profits from Timber, etc.

The following is the rule made under this law in regard to timber-land:

"If a person sells timber standing, the profits are to be ascertained by taking the value of the land after removal of the timber and adding thereto the amount received for the timber, and from the sum thus obtained deducting the actual value of the land at the time of the sale of the timber."

The old rule was to deduct the estimated value of the land on the first day of January, 1862, or on the day of purchase, if purchased since that date. 7 Int. Rev. Rec., 58.

By analogy it seems that if a person sells

wood and lumber cut from his own land, the profits would be ascertained by taking the value of the land after removal of the wood or lumber and adding thereto the amount received for the wood or lumber; and from the sum thus obtained deducting the actual expense of cutting the same (excluding all deductions for the personal services of the owner and his family) plus the actual value of the land at the time the trees are cut down.

X.

Profits from Mines.

The following were the rulings under the old laws with reference to coal mining:

"No deductions can be made because of the diminished value, actual or supposed, of the coal vein or bed by the process of mining. Rent derived from coal mines is income." Boutwell, 274; May, 1863.

"Coal after it is used, i. e., brought to the surface, is personal property, and a sale of underlying coal TO BE PAID FOR AT A CERTAIN RATE FOR EACH TON MINED, should be treated as a sale of personality. The miner's profit upon his sale of mined coal is the excess of the amount received for it over what it cost him. In determining the cost, the amount paid for the underlying coal may be included, but not the value of the personal services of himself or his family. The profit of the owner of the

mine or coal lands is the excess of the sum received for the quantity sold over its estimated cost." 5 Int. Rev. Rec., 154. 1867.

"The profit realized on the sale of mined COAL BY THE MINER is the difference between the amount received for the coal and the actual expense of producing the same (excluding all deductions for the personal service of the miner and his family) plus the actual or estimated cost of each ton as paid to the lessor or owner. The lessor or owner, receiving pay for his coal only when mined, would be liable on the difference between the amount received for each ton and the estimated amount which he paid for each originally." 7 Int. Rev. Rec., 59 and 60. 1868.

In case of the sale of timber standing, a person is entitled, according to the ruling under the present law above stated, to a deduction of the "actual value of the land at the time of the sale of the timber," instead of its value "on the day of purchase" as it was under the old law.

By analogy, the profits of an owner of a mine which is leased should be ascertained by taking the value of the land at the end of each year and adding thereto the amount received for the mineral mined during the year, and from the sum thus obtained deducting the actual value of the land at the beginning of the year, or at the time of the lease in case the lease is made after the beginning of the year.

By analogy, also, if a person works his own mine, the profits should be ascertained by taking the value of the land at the end of the year and adding thereto the amount received for the mineral mined by him during the year, and from the sum thus obtained deducting the actual expense of the mining (excluding the expense of the personal services of the owner and his family) plus the actual value of the land at the beginning of the year, or the time of his purchase, if he purchased after the beginning of the year.

Such a rule would seem to be fairer than the one under the old law above stated. Under that law he paid on the profit above the estimated original cost to him of the mineral, even if the land was purchased many years prior, even before the discovery of the mine, and such a result is opposed to the tendency of the decision of the Supreme Court of the U. S., in Gray *v.* Darlington, 15 Wall., 63, referred to on page 18.

XI.

Suggestions as to Returns for 1894 in Relation to Incomes from Business.

1. Get at Gross Receipts, Credits, Earnings and Gains from your business of 1894, as nearly as is practicable.

   To be placed in Item I on personal and corporation blanks.

2. This seems to exclude receipts in 1894 from any of the business before 1894.

3. But seems to include

   (1) Either all receipts, credits, earnings and gains from the business of 1894, whether payment was to be made in 1894 or later.

   (2) Or, more probably, only such receipts, credits, earnings and gains as payment was due from in 1894.

4. Get at cost of materials included in 1 as nearly as is practicable.

   To be placed: (1) Either wholly under Deduction 9 on Personal Blanks, and Deduction 7 on Corporation Blanks; or (2) cost of material on hand Dec. 31, 1893, sold in 1894, under above items of deductions, and cost of other material under Deduction 5 on Personal Blanks and Deduction 8 on Corporation Blanks.

5. Materials on hand Dec. 31, 1893, should in ordinary lines of business have been marked, separated, or otherwise kept, so that the amount of such materials on hand Dec. 31, 1894, could be identified and cost estimated.

6. Cost of materials sold in 1894, payable in 1895, or later, should have been taken at time of sale unless cost could be obtained after materials were gone.

7. Account of stock on hand Dec. 31, 1894, should have been taken.

8. Either

   (1) Cost of stock on hand Dec. 31, 1893, added to cost of stock purchased in 1894, less cost of stock on hand Dec. 31, 1894, and less also cost of stock sold in 1894 payable after 1894, equals cost of the materials included in Item 1 (Gross Receipts, etc.), which can be deducted,—

   Or

   (2) Cost of stock on hand Dec. 31, 1893, added to cost of stock purchased in 1894, less cost of stock on hand Dec. 31, 1894, equals cost of the materials included in Item 1 (Gross Receipts, etc.), which can be deducted.

9. As the law was not passed until Aug. 28, 1894, the above means for estimating cost may not have been possible. For the Return for 1894 the Department, without doubt, will allow each taxpayer to get at the required items of the business in the most practicable way.

CHAPTER IX.

PERSONAL AND CORPORATION BLANKS.

I.

Personal Blanks.

1 Gross receipts, credits, earnings, and gains from any business, or any interest therein, wherever carried on . . . .
2 From rents received or accrued during the year . . . . . .
3 From profits realized on sales of real estate purchased since December 31, 1892 . . . . . .
4 From farming operations: Proceeds from sales of live stock " " " Proceeds from sales of agricultural products . . . . . .
5 Money, and the value of all personal property acquired by gift or inheritance . . . . . .
6 Premium on bonds, stocks, notes, or coupons . . . . . .
7 Income from profession, trade, or other employment, except stated salary or pay . . . . . .
8 From salary, compensation, or pay for particular services, and not including salary, or compensation received from the United States . . . . . .
9 From salary, or compensation received for services in the civil, military, naval, or other service of the United States, including salary of Senator, Representative, or Delegate in Congress . . . . . .
10 From gains and profits, divided or undivided, of any partnership . . . . . .
*11 From interest received or accrued within the year upon all notes, bonds, mortgages, or other forms of indebtedness bearing interest, whether paid or not, if good and collectible . . . . . .
12 From interest or coupons paid or accrued on any bonds, or other evidences of indebtedness, of any corporation, company, or association . . . . . .
13 From dividends or interest paid or accrued on the stock, capital, or deposits of any corporation, company, or association . . . . . .
14 Income of wife or minor children computed on the same basis as this return . . . . . .
15 From all sources not above enumerated, viz: . . . . . .

DEDUCTIONS.

1 Exempt by law $4 000 00
2 Interest which has become due or which has been paid during the year . . . . . .
3 National, State, county, school, or municipal taxes paid within the year, not including taxes assessed against local benefits . . . . . .
4 Amount expended in the purchase or production of live stock, or produce sold within the year . . . . . .
5 Necessary expenses actually incurred in carrying on any business, occupation, or profession, and not elsewhere deducted in this return . . . . . .
6 Losses actually sustained during the year, incurred in trade or arising from fires, storms, or shipwreck, and not compensated for by insurance or otherwise, and not already deducted in ascertaining profits . . . . . .
7 Actual losses on sales of real estate purchased since December 31, 1892 . . . . . .
8 Debts ascertained within the year to be worthless, and not elsewhere deducted in this return . . . . . .
9 Cost price of material purchased for manufacture or resale, not increasing stock on hand December 31, 1893 . . . . .
10 Dividends, heretofore included in the statement of profits, under paragraph 13, received from corporations, companies, or associations, on which the tax of two per centum has once been paid by such corporation . . . . . .

*See instructions Nos. 11 and 16.

The person making the foregoing return is required to answer the following questions, namely:

Question 1. Had your wife, or any minor child or children of yours, any income last year?

Answer 1. . . . . .

Question 2. Have you included such income or incomes in this return?

Answer 2. . . . . .

Question 3. Have you kept books of account?

Answer 3. . . . . .

Question 4. Is your income herein estimated, or taken from your books?

Answer 4. . . . . .

Question 5. What are the particular items of "Losses" set forth by you opposite paragraph 6 of "Deductions," and when did each occur?

Answer 5. . . . . .

. . . . . .

. . . . . .

Question 6. Are you a citizen of the United States, and what is your occupation?

Answer 6. . . . . .

Question 7.* How did you determine that debts returned by you as "worthless" could not be collected?

Answer 7. . . . . .

Question 8. What were the "necessary expenses," and the amount of each class, included in the amount set opposite paragraph 5 of "Deductions"?

Answer 8. . . . . .

. . . . . .

. . . . . .

State of . . . . . } ss:
County of . . . . . }

. . . . being duly sworn, on his oath (or affirmation), deposes and says that the foregoing return contains a full, true, particular, and correct account of all gains, profits, or income received by or accrued to . . . . . from the first day of January, 1894, to the thirty-first day of December, 1894, both days inclusive, and that said return contains a true account of all his income from every source, whether derived from any kind of property, rents, interest, dividends, undivided profits, wages, or salary, or from any trade, profession, employment, or vocation, or from any other source whatever, during said year; and that he has not received from any or all sources of income together, any other sum for the said year besides what is herein set forth in detail; and that each item stated under the head of Deductions is correct, and he is honestly and truly entitled to make all the deductions from his income for said year as specifically stated in detail, and that the written answers to the above questions are true.

Sworn to and subscribed before me this . . . . day of . . . . . , 1895. } . . . . . .

. . . . . } . . . . . .

*See Instruction No. 17.

II.

Corporation Blanks.

1 Gross receipts, credits, earnings, and gains from any business, or any interest therein, wherever carried on . . . .
2 From interest or coupons, due or paid on any bonds, or other evidences of indebtedness of any corporation, company, or association . . . . . .
3 From dividends or interest on the stock, capital, or deposits of any corporation, company, or association . . . . . .
4 From undivided profits of any corporation, company, or association . . . . . .
5 From premium on bonds, stocks, notes, or coupons . . . . . .
6 From commissions, or percentage . . . . . .
*7 From interest on notes, bonds, or other securities of the United States, except such bonds of the United States the principal and interest of which are exempt from Federal taxation . . . . . .
8 From interest received or accrued on all notes, bonds, mortgages, or other forms of indebtedness not included in the foregoing items . . . . . .
9 From profits realized within the year from sales of real estate purchased since December 31, 1892 . . . . . .
10 From rents received or accrued . . . . . .
11 From all sources not above numerated (specifying same), viz:
TOTAL RECEIPTS, GAINS, AND INCOME . . . . . .

12 OPERATING AND BUSINESS EXPENSES:
1. Interest paid or accrued within the year on bonded or other indebtedness . . . . . .
2. Losses actually sustained during the year . . . . . .
3. State, county, municipal, or town taxed accrued during the year 1894 and actually paid . . . . . .
4. Salaries, compensation, or pay of officers or other persons employed during the year . . . . . .
5. Rents, or necessary repairs, but not including amount used for construction or enlargement of plant . .
6. Actual losses on sales of real estate purchased since December 31, 1892 . . . . . .
7. Cost price of material purchased for manufacture or resale, not increasing stock on hand Dec. 31, 1893
8. Other expenses not above enumerated, viz: . . . . . .
TOTAL OPERATING AND BUSINESS EXPENSES. . .

13 Net profits or income over operating and business expenses .
14 Dividends and gains heretofore included in the statement of profits under paragraphs 3 and 4, received from corporations, companies, or associations, on which the tax of two per centum has once been paid by such corporation, etc. .
AMOUNT OF NET PROFITS OR INCOME LIABLE TO TAX
TAX AT TWO PER CENTUM . . . . . .

15 Amount paid in salaries, or other compensation, or pay of officers or other persons employed, not including salaries of more than four thousand dollars . . . . . .
16 Amount paid in salaries, or other compensation, or pay of officers or other persons employed, including only salaries of more than four thousand dollars . . . . . .
TOTAL SALARIES, ETC., PAID . . . . . .

17 Name and address of each person to whom a salary of more than four thousand dollars was paid, and the amount paid to such person: . . . . . .

NAME OF PERSON. POST-OFFICE ADDRESS.

TOTAL . . . . . .

Statement of all Interest, Annuities, and Dividends declared due or paid to shareholders, stockholders, policy holders, or Depositors by the . . . . . , from the first day of January, 1894, to the thirty-first day of December, 1894, both days inclusive, and of all undivided profits of said . . . . . on hand or added to any fund, and amount of net annual profits, or income, of said . . . . . used for construction, enlargement of plant, or any other expenditure or investment, paid from the net annual profits of said . . . . . for said year, pursuant to the provisions of the Internal-Revenue Laws:

1 Dividends declared or paid on stock, capital, or deposits, etc
2 Annuities declared or paid on bonds, stock, capital, or policies . . . . . .
3 Interest paid on shares, stocks, capital, or deposits . . . . . .
TOTAL INTEREST, ANNUITIES, AND DIVIDENDS . .
4 Undivided profits, over dividends declared or paid, on hand or carried to the account of surplus or other fund . . . .
5 Amount of net profits or income used for construction . . . .
6 Amount of net profits or income used for enlargement, betterment, or permanent improvement of plant . . . . . .
7 Amount of net profits or income used for other expenditures, or investment . . . . . .
TOTAL NET PROFITS . . . . . .

Question 1. Has the corporation, company, or association for which this return is made, kept full, regular, and accurate books of account, upon which all its transactions were entered from day to day for the full period covered by this return? Answer . . . . . .

Question 2. Is this return made exclusively from said books? Answer . . . . . .

Question 3. Have the full amounts set forth in this return as salaries of officers and pay to employees been actually paid within the year covered by this return to bona fide officers and employees of this corporation, company, or association for services actually rendered? Answer . . . . . .

Question 4. What are the particular items of losses included in the amount set opposite paragraph 2, under "Operating and Business Expenses" on page 2 of this return, and when did each occur? Answer . . . . . .

STATE OF . . . . . , COUNTY OF . . . . . , SS:

I, ... , of the . . . . . do swear (or affirm), that the foregoing return contains a true, full, regular, and accurate account of all the gains, profits, and income received by or accrued to said . . . . . , from the first day of January, 1894, to the thirty-first day of December, 1894, both days inclusive, and a true and complete statement of the net profits or income of said . . . . . for said year, and the true amount and kind of operating and business expenses thereof; and of all dividends, interest, or annuities declared due or paid by said . . . . . ; and of all undivided profits thereof; and the amount of net profits or income used for construction, enlargement of plant, or investment, as therein specified; and that the above questions have been fully and truthfully answered.

Sworn to and subscribed before me . . . . this day of . . . . , 1895 } . . . . . .
. . . . . .

III.

Instructions on Personal Blanks.

1. All persons who are required by law to make and render a personal list or return of the amount of their income, gains, and profits received in the preceding calendar year, and all persons who are required to make and render a list or return of the amount of income, gains, and profits of any minor or person for whom they act, shall, on or before the first Monday of March in each year, make out such list or return in the form and manner indicated on pages 2 and 3 of this blank.

2. The person making the return shall subscribe his name thereto in full, and shall state his place of residence and occupation, and if he is not a citizen of the United States he shall so state.

3. In case such list or return is made for or in behalf of any minor or other person, or estate, the fact shall be stated. The right and authority of any person who makes and renders such list or return, on the part and in the behalf of another, shall be disclosed, and the fact shown to the Collector that such person was vested with such right and authority, and that it was his duty to make and render such list or return.

4. The gross amount of income derived from any particular source should be given, and entered in the return opposite the name of the source or object included in the statement. The exemption and the deductions allowed by law should be given next in order, and the several amounts should be entered

opposite the several items of deductions appearing in the return.

5. The income, gains, and profits received during the year from any source not enumerated on the blank shall be given, and the particular source from which such income, gains, and profits were received shall be enumerated on said return under paragraph 15, and the amount of income, gains, and profits derived therefrom shall be entered opposite thereto.

6. The person making the return is required to verify the same, by oath or affirmation, as indicated on the within form, by affidavit to be sworn to before some officer using a seal and authorized to administer oaths, or before a Collector or Deputy Collector of the district.

7. The income tax must be paid in the district in which the taxpayer's return is made, to a Collector or Deputy Collector of Interual Revenue.

8. Persons having an annual income of less than three thousand five hundred dollars are not required to make and render an annual return, but in all cases where the annual income of any person exceeds the sum of three thousand five hundred dollars, whether it reaches the taxable limit of four thousand dollars or not, the list or return on Form 365 should be made by such person, duly verified, and forwarded to the Collector of the district in which he resides.

9. Expenses for medical attendance, store accounts, family supplies, wages of domestic servants, cost of board, room or house rent for family or personal use, are not expenses that can be deducted from the gross profits or income in making annual returns. It was manifestly the legislative intention

that the four thousand dollars exempt from the payment of the income tax should be applied to the above-enumerated expenses, and all personal expenses for the maintenance of the family and household of the taxpayer receiving the benefit of the exemption.

10. The national, state, county, school, and municipal taxes deductible from incomes comprise such internal-revenue taxes as have not been included in the expenses of the business, and all such state, county, school, and municipal taxes as are assessed ratably upon all persons liable to such assessment: but assessments made upon the real estate of a particular locality on account of street improvements, sewerage, street grade, or other improvements intended to benefit the particular property included in said locality, are not considered as taxes which may be deducted from incomes.

11. The interest on all bonds of the United States shall be returned as income by the person, corporation, company, or association owning or holding such bonds, except the interest on bonds of the funded loan of 1891, continued at two per cent; and the bonds of the four per cent funded loan of 1907; and the bonds of the five per cent funded loans of 1904, all of which are by the law of their issuance exempt, both as to principal and interest, from all federal taxation.

12. In estimating the amount of taxable income, only such losses as shall have been actually suffered, and the amount of which has been definitely ascertained during the year covered by the return, can be deducted from the gross profits for that year. No deduction will be allowed for any losses not specific-

ally described and set forth in the annual return of the person or corporation claiming the deduction.

13. Nonresidents are not entitled to the exemption of four thousand dollars, or to any exemption whatever, unless they make out their annual returns, duly verified by oath or affirmation, and deliver the same to the Deputy or Collector of the district wherein their property or business from which income is derived is situated, in the time prescribed in the case of residents. In preparing returns, nonresidents may, when necessary, use two forms, No. 365 — one for income from all sources, and one for income derived from business or any other source in the United States.

14. Persons receiving fees or emoluments for professional or other services, as in the case of physicians or lawyers, should include all actual receipts for services rendered in the year for which return is made, together with all unpaid accounts, charges for services, or other income due for that year, if good and collectible.

15. The annual return of merchants and manufacturers of their gains, profits, or income, should cover the business of the year, from the first day of January to the 31st day of December in the year for which return is made; and their books of account, stock records, and inventories should be kept and taken at such time and in such manner as to clearly show the gross profits, business expenses, net profits, or income for the year ending at the close of business hours on the 31st day of December.

16. The interest accrued during the year on notes, bonds, or other evidences of indebtedness, if good and collectible at the end of the year, should

be returned as income, whether actually collected or not. Dividends payable in 1894 should be returned as income for that year, no matter when declared.

17 Debts which were contracted during the year 1894, but found in said year to be absolutely worthless, may be deducted from the income of the creditor in his annual return for said year, but such debts can not be considered or returned as worthless until after legal proceedings to recover the same have proved fruitless, or it clearly appears that the debtor is insolvent, and that proceedings to collect the debt would avail nothing. In making the deduction for worthless debts, the person claiming the same must state in his return that one of the facts as above set forth exists in connection with the debt returned as worthless.

18. Where the salary or compensation paid to any person in the service of the United States does not exceed the rate of $4,000 per annum, or will not reach that sum in the calendar year, or is paid in fees, or is uncertain or irregular in amount or in the time during which the same was earned or has accrued, such salary or compensation shall be included in estimating the annual gains or income of the person to whom the same was paid, and shall be entered on his annual return (Form No. 365) to the Collector with his other sources of income. All salaries or compensation paid to officers or persons in the employ of the Government of the United States in and for the calendar year 1894 shall be included in the annual returns to Collectors, on Form 365, of such officers and persons, in statements of gains, profits, and incomes subject to income tax for that year.

CHAPTER X.

EXPLANATIONS OF BLANKS FOR PERSONS.

I.

1. "*Gross receipts, credits, earnings, and gains from any business, or any interest therein, wherever carried on.*"

The first item of the blank for return of income of the year 1862 was as follows: 1. "Income of a resident of the United States from profits on any trade, business, or vocation, or any interest therein, wherever carried on." (Boutwell, page 156.) And the first item of the blank for return of year 1866 was as follows: "1. From profits in any trade, business, or vocation, from which income is actually derived, or any interest therein, wherever carried on." (5 Int. Rev. Record, 82.)

Therefore, after this first item on those blanks would be placed the profits of a person from his business.

The blank under the present law differs from the old blanks. Under Item 1, the "gross receipts, credits, earnings, and gains" are included, and deduction is made under Deductions for the cost of material and other

expenses. Therefore, after this item 1, the gross profits should not be placed, but the "gross receipts, credits, earnings, and gains."

The following is the rule made March, 1895, under this clause in regard to timber land:

"If a person sells timber standing, the profits are to be ascertained by taking the value of the land after removal of the timber and adding thereto the amount received for the timber, and from the sum thus obtained deducting the actual value of the land at the time of the sale of the timber."

The old ruling was to deduct the estimated value of the land on the first day of January, 1862, or on the day of purchase, if purchased since that date. 7 Int. Rev. Rec. 58.

"*Gross Receipts.*"

"Receipts," states Anderson's Dictionary of the law, are "moneys received."

These include all receipts from the business of 1894. The cost of the material bought and sold in 1894 would be deducted under item 5 of Deductions; the cost of the material bought before 1894 and sold in 1894 would be deducted under item 9 of Deductions. Or (see p. 49) perhaps both would be deducted under item 9.

If "gross receipts" include receipts from credits, earnings and gains *before* 1894 the

cost of material for such credits could be deducted under item 9 of Deductions. See also Bout. 274.

But probably "gross receipts" mean from sales, credits, earnings and gains of the year 1894, otherwise a person would have to pay on profit made in 1893, in case of a sale, and could deduct, in case of earnings, nothing for expenses of 1893. The regulations (p. 155) provide that lawyers, etc., are to include only receipts from the business of the year.

It was held in U. S. *v.* Schillinger, 14 Blatch. 71, that promissory notes are income of the year when due, and not of year when given.

Probably under this item should not be included notes taken, or credit given in 1894, but not due and payable until after 1894; (if not, no deduction can be made for cost of materials for which they were given.)

"*Credits.*"

These include only credits from business of 1894 and not accounts on books December 31, 1893.

If gross "credits" include the face of the accounts, deduction would be made for loss the year when by insolvency of the debtor, or proceedings against the debtor or otherwise, the debt was found to be a "loss actually sustained." See 6 and 8 of Deductions.

If gross "credits" can be estimated, it would be in line with ruling of department under law in 1863: "uncollected accounts must be estimated." Boutwell, 273; with U. S. *v.* Frost, 9 Int. Rev. Rec., 41, that whether book accounts are "gains, profits or income" for the year depends upon their intrinsic value; and with the regulations (page 155, No. 9) that physicians, lawyers and the like should return amounts received, and unpaid accounts, if good and collectible.

But each account would have to be estimated separately, so that when settled, it could be determined whether a loss or a gain had been made through the estimate, which gain would be included and which loss would be deducted in return for year when settlement of the account was made.

"Estimated depreciation of values" cannot in light of the express words of the statute be deducted, but as "credits" are only of the year for which return is made, there is no value placed on them until the close of the year, and then the question is how much of each one is a "gain, profit or income." The same phrase was in the law of 1867 when the court decided, U. S. *v.* Frost, 9 Int. Rev. Rec., 41, as above quoted.

"*Earnings.*"

This may include work done for which no

settlement has been made. The above as to "credits" would apply to this.

2. "*From rents received or accrued during the year.*"

3. "*From profits realized on sales of real estate purchased since December 31, 1892.*"

4. "*From farming operations: Proceeds from sales of live stock.*"

"*From farming operations: Proceeds from sales of agricultural products.*"

The statute says: "the amount of sales of live stock, sugar, cotton, wool, butter, cheese, pork, beef, mutton, or other meats, hay, and grains, other vegetable or other productions, being the growth or produce of the estate of such person."

5. "*Money, and the value of all personal property acquired by gift or inheritance.*"

When is property coming by will or inheritance "acquired?" Whenever it is transferred or delivered by the executor or administrator to the legatee or distributed it might be held to be "acquired," even if a bond should be required for a re-transfer of re-delivery in case it should be needed for the payment of debts. But except in cases of actual transfer or delivery what amount can be said to be "acquired"

by the legatee or distributee until at least after the time allowed by law for bringing in claims against the estate?

6. "*Premium on bonds, stocks, notes or coupons.*"

In the law of 1867 it was: "the amount of all premium on gold and coupons."

If bonds, etc., should be payable in gold, the amount of the premium on the gold received might be here included.

Would it include amount received above the cost price?

"Premium. Value above the original price or cost as opposed to discount." Worcester Dict., Premium. "In stock broking, etc., the percentage of difference by which the market price of shares, stocks, bonds, etc., exceed their full value or the sum originally paid for them; thus, when stocks originally issued at $100 per share sells at $140 per share, it is said to be at a premium of 40 per cent. above par; at a higher price than the original cost or normal value." Century Dict., page 4693.

The above may refer merely to value above original cost, at time of issue, and not to advance over value paid by person last holding them.

7. "*Income from profession, trade, or other employment, except stated salary or pay.*"

The regulations (page 155, No. 8) say: "Persons receiving fees or emoluments for professional or other services, as in the case of physicians or lawyers, should include all actual receipts for services rendered in the year for which return is made, together with all unpaid accounts, charges for services, or contingent income due for that year, if good and collectible."

8. "*From salary, compensation, or pay for particular services, and not including salary, or compensation received from the United States.*

By Sec. 33 a tax is to be paid on all salaries over $4000 of employees of a corporation, "Provided, that salaries due to State, county, or municipal officers shall be exempt from the income tax herein levied."

The regulations (p. 158) state: "All salaries paid by States, counties, or municipalities to their public officers, whether paid in fixed amounts or by fees, are wholly exempt from income tax, and should not be included in the annual list or return of any person."

9. "*From salary, or compensation received for services in the civil, military, naval, or other service of the United States, including salary of Senator, Representative, or Delegate in Congress.*"

The statute (Sec. 28) and the regulations (page 135, No. 7) say that there shall not be included that part of such salary, etc., "from which the tax has been deducted."

If a man had a salary of $5000 from the United States, he would have deducted, under Sec. 33, two per cent. on amount above $4000, i. e., 2% on $1000, or $20, and would therefore receive $5000 less $20, or $4980.

If he had $2000 income outside his salary, his total tax according to the blank would be $2000, plus $4980 (amount received for salary), equals $6980, less $4000, equals $2980, on which the 2% tax would have to be paid, and he would thus pay *twice* on the $980 of his salary.

But according to the statutes he would not have to pay on that part of his salary from which the tax had been deducted i. e., on the part above $4000. Thus his tax would be $2000 plus $4000, equals $6000 less $4000, or $2000 on which the tax would have to be paid *by him.*

Where, therefore, a man receives more than $4000 a year as salary from the United States, he would put $4000 in column after this item if any tax had been deducted by the United States.

If his salary is not a fixed one or more than $4000 a year no tax would be withheld (Regu-

lations p. 159), and he will include in this item the whole amount received.

10. "*From gains, and profits, divided or undivided, of any partnership.*"

Sec. 32 says there shall be a tax on "all other corporations, companies or associations doing business for profit in the United States, no matter how created and organized, but not including partnerships."

The regulations (page 145) say: "Partnerships, as such, are not liable to taxation of firm or partnership profits or income, but each individual member of the partnership shall include his share of the partnership profits, gains, or income, in his individual list, where he is required by law to make return of his income for taxation."

There seems to be nothing in the law or regulations to prevent partnerships from getting at their gains and profits in their usual way, but they must make them up to include the gains and profits for each calendar year, beginning on the 1st day of January, and ending on the 31st day of December.

But the Department may require such profits to be determined by partnerships the same way as by individuals.

11. "*From interest received or accrued within the year upon all notes, bonds, mort-*

gages, or other forms of indebtedness bearing interest, whether paid or not, if good and collectible."

Interest on all U. S. bonds should be included except on "bonds of the funded loan of 1891, continued at two per cent; and the bonds of the four per cent funded loan of 1907; and the bonds of the five per cent funded loan of 1904." Instruction 11 on Blank for Persons."

Interest on State, county, and municipal bonds may possibly be exempt.

See the Collector *v.* Day, 11 Wall., 113 and U. S. *v.* R. R. Co., 17 Wall., 322.

"The interest accrued during the year on notes, bonds, or other evidences of indebtedness, if good and collectible at the end of the year, should be returned as income, whether actually collected or not. Dividends payable in 1894 should be returned as income for that year, no matter when declared." Instruction 16 on Blank for Persons.

It would seem that interest accrued before 1894 but paid in 1894 should not be included.

12. "*From interest or coupons paid or accrued on any bonds, or other evidences of indebtedness, of any corporation, company, or association.*"

That is, interest or coupons accrued "if good and collectible."

13. "*From dividends or interest paid or accrued on the stock, capital, or deposits of any corporation, company, or association.*"

"Dividends payable in 1894 should be returned as income for that year, no matter when declared." Instruction 16 on Blank for Persons.

This would include a dividend on profits made in 1893 on which the corporation would not have to pay a tax. In such a case a person would have to include the dividend and could get no deduction under the Resolve of Feb. 21, 1895. See item 10 of Deductions.

Should this include only dividends from net profits of the corporation of the past year? The undivided profits of the corporation unpaid Dec. 31, 1893 belonged to the shareholders, and dividends paid stockholders in 1894 from earnings of previous years were possibly *not* gains, profits or income of the stockholders for the year.

See the Merchant's Ins. Co. *v.* McCartney, 1 Lowell, 447.

Whenever the corporation, or person receiving or being entitled to a dividend could under Resolve of Feb. 21, 1895 (item 12 of Deductions), deduct that very amount, it would be useless to include the amount under one item and deduct that very amount under

another. Therefore it would seem proper to omit it under such circumstances.

Stock dividends would include only the part from earnings of 1894.

See 2 Int. Rev. Rec. 61.

See Item 10 of Deductions.

14. "*Income of wife or minor children computed on the same basis as this return.*"

The statute (Sec. 28) says: "*Provided further*, That only one deduction of four thousand dollars shall be made from the aggregate income of all the members of any family, composed of one or both parents, and one or more minor children, or husband and wife."

The regulations say (page 154, No. 3):—

"Only one deduction of $4000 can be allowed from the aggregate incomes of all the members of any family composed of parents, or parent, and minor children. It is not essential that the children live with the parents. A husband and wife are regarded as members of the same family, though living separately, unless separated by divorce or other operation of law, so as to break up the family relations. Where separate wards are not comprised in one family, guardians are allowed to make a deduction in favor of each and every ward. The parent, as natural guardian for a minor child, is required to make return for him, but where any

other guardian or trustee has been appointed, return should be made by such guardian or trustee. If the minor has no guardian or trustee he should make return himself. If he refuses or neglects to make return, the same must be made by the collector."

Does this mean that the incomes of husband and wife and minor children, no matter what the amount of each may be, are to be added, and if they exceed $4000, a tax is to be paid on the excess? Or does it mean that each taxable income, i. e., each income of $4000 or over is to be added, and only one deduction to be made?

As arguments in favor of latter interpretation is fact that statute above given is there referring to the *deductions* and not the persons to be taxed; again, Sec. 27 states that every person shall pay a tax on the income *above $4000* and Sec. 29 says "but persons having less than three thousand five hundred dollars income are not required to make such report." No part of the law provides for a return by the husband for the wife, and altogether the latter interpretation would seem most reasonable.

Under the old law, however, it was ruled that the incomes were to be added, no matter what their amount might be.

The parent is not obliged to include the income of a minor who has been emancipated. 11 Int. Rev. Rec. 122.

"*Wards.*"

Where there is a legally appointed guardian, whether the parent or not, he can deduct $4000 from the income of the ward.

Where separate wards are not comprised in one family, the guardian can make a deduction in favor of each ward.

Regulations quoted under this Item

Where wards are in one family, if their property interests are joint there can be but one deduction; but where their property interests are separate there can be a deduction for each ward.

11 Int. Rev. Rec. 153.

15. "*From all sources not above enumerated, viz.*"

This would include money from pensions, Bout. 274, 4 Int. Rev. Rec. 55; Ruling March, 1895; also life insurance money distributed to heirs. Ruling March, 1895.

This would not include that from such sources as endowment insurance, money received for personal injuries and the like. 7 Int. Rev. Rec. 59; Ruling March, 1895; nor value of real estate acquired by inheritance. Ruling March, 1895.

II.

Deductions.

1. "*Exempt by law . . . . $4000.*"

As to deductions in case of a family and of wards see item 14 above.

The statute provides (Sec. 31) that "Any non-resident may receive the benefit of the exemptions by filing with the deputy collector of any district a true list of all his property and sources of income in the United States and complying with the provisions of section twenty-nine of this act, as if a resident."

This statute, according to the literal meaning of its words, requires a "list of all his property," in addition to his sources of income. But No. 13 of instructions on page 1 of the blanks calls merely for the income, and adds: "In preparing returns, non-residents may, when necessary, use two forms, No. 365—one for income from all sources, and one for income derived from business or any other source in the United States."

2. "*Interest which has become due or which has been paid during the year.*"

This probably refers to interest paid during the year or interest due during the year and does not allow the deduction of interest due before 1894, but paid in 1894. See item 11 above.

3. "*National, State, county, school, or municipal taxes paid within the year, not including taxes assessed against local benefits.*"

Instruction 10 on page 1 of the blank says: "The national, state, county, school, and municipal taxes deductible from incomes comprise such internal-revenue taxes as have not been included in the expenses of the business, and all such state, county, school, and municipal taxes as are assessed ratably upon all persons liable to such assessment; but assessments made upon the real estate of a particular locality on account of street improvements, sewerage, street grade, or other improvements intended to benefit the particular property included in said locality are not considered as taxes which may be deducted from incomes."

4. "*Amount expended in the purchase or production of live stock, or produce sold within the year.*"

The live stock and produce referred to is that given under item 4 above. The words of the statute are: "less the amount expended in the purchase or production of said stock or produce, and not including any part thereof consumed directly by the family."

The amount consumed by the family is neither to be added as a part of the income, nor to be deducted as an expense.

5. Necessary expenses actually incurred in carrying on any business, occupation, or profession, and not elsewhere deducted in this return."

Under this item, (or under item 9 below) there would be deducted among other things the cost price of material purchased for manufacture or resale in *1894*, and sold in that year so that it thereby becomes a "receipt" or "credit," under item 1 of the blank. The cost of material on hand at close of business Dec. 31, 1894, is not taken into account in the blank.

The cost of 1893 material sold in 1894 is to be deducted under item 9 below.

"*Resolved*, That in computing incomes under said Act the amounts "necessarily paid for fire-insurance premiums and for ordinary repairs shall be deducted." Approved Feb. 21, 1895.

6. "*Losses actually sustained during the year, incurred in trade or arising from fires, storms, or shipwreck, and not compensated for by insurance or otherwise, and not already deducted in ascertaining profits.*"

The above contain the words of the statute. No. 12 of the instructions on page 1 of the blank provides: "In estimating the amount of taxable income, only such losses as shall have been actually suffered, and the amount of which has been definitely ascertained dur-

ing the year covered by the return, can be deducted from the gross profits for that year. No deduction will be allowed for any losses not specifically described and set forth in the annual return of the person or corporation claiming the deduction." Losses of capital such as by robbery, etc., cannot be deducted (5 Int. Rev. Rec. 123, 7 Id. 60). See item 12, paragraph 2 in Chapter XI.

If only such "credits" are to be included as income under item 1 as are good and collectible, in this item could be deducted in the next return any loss in amount collected through crediting too much of an account as good.

If "credits" in item 1 include the face, under this item could be deducted in the next return the loss in amount collected through crediting the face of the account.

Where a debt contracted in 1894 was found in that year to be worthless, it can be deducted under this item or under item 8 below.

"*Incurred in trade.*"

Do these words include a loss through a sale in 1894 of property outside of a man's regular business, as, for example, of stock in a corporation purchased previous to that year? The statute will be interpreted to favor the taxpayer (141 U. S. 474), and the Supreme Court said in May *v.* Sloan, 101 U. S., 237:

"The word 'trade' in its broadest signification includes not only the business of exchanging commodities by barter, but the business of buying and selling for money, or commerce and traffic generally" and on page 239 "the word trade . . . . [in an agreement] was used by the parties in its broadest signification, *so as to include any bargain or sale.*"

It was held under the old law that losses sustained in the year through sales in that year of stock purchased prior to the year, could be deducted. (5 Int. Rev. Rec. 115, Id. 148, 7 Id. 59.) Now held otherwise. Ruling Mar., 1895.

The words would seem to include any loss by way of a sale, and simply excludes losses by gift, etc.

7. "*Actual losses on sales of real estate purchased since December 31, 1892.*"

The words of the statute are (Sec. 28): "And all national . . . taxes . . . shall be deducted . . .; also losses actually sustained during the year, *incurred in trade, or arising from fires,* [*storms*], *or shipwreck,* [*and not compensated for by insurance or otherwise*], *and debts ascertained to be worthless, but excluding all estimated depreciation of values and losses within the year on sales of real estate purchased* [*within*] *two years*

previous to the year for which income is estimated."

The words of the statute in italics are exactly the same, also the punctuation, as in the act of 1867, except that the words in brackets are new in this act. The word "within" inserted between "purchased" and "two" is the important word which changes completely the operation of the law. The law of 1867 allowed the deduction of all "losses actually sustained within the year," but excluded losses "on sales of real estate purchased two years previous;" that is, losses on such sales of real estate purchased two years previous to the year for which income was estimated could *not* be deducted, but losses on sales of real estate purchased *within* the two years could be deducted.

The word in brackets, "*within*," was inserted. This law, therefore, allows the deduction of all "losses actually sustained within the year," but excludes losses "on sales of real estate purchased *within* two years previous;" that is, losses on such sales of real estate purchased *within* two years previous to the year for which income was estimated can *not* be deducted, but, under the general allowance of a deduction for all "losses actually sustained," losses within the year 1894 on sales of real estate purchased in 1894 or two years

or more previous (i. e., purchased in 1894 or at any time *before* Jan. 1, 1892) can be deducted under the statute. If this is the true interpretation of the statute, this item 7 is void as in conflict with the statute (120 U. S. 46), and returns should be made as if it read: "Actual losses on sales of real estate purchased in 1894 or previous to Jan. 1, 1892."

Even if the word "within" had not been inserted, this item 7 would seem to be wrong. The words in the statute as to including *profits* on sales of real estate are (Sec. 28): "two years previous to the *close of the* year for which income is estimated, while the provision as to deductions, above quoted, does not contain the words, "close of the." Therefore, the two years would be the two previous to the beginning and not to the close of the year, i. e., purchased since Dec. 31, 1891. Such (7 Int. Rev. Rec. 60) was the construction under the law of 1867. See Cong. Rec. p. 6777.

8. "*Debts ascertained within the year to be worthless, and not elsewhere deducted in this return.*"

The Instruction No. 17 of the blanks (p. 78) states: "Debts which were contracted during the year 1894, but found in said year to be absolutely worthless, may be deducted from the income of the creditor in his annual return for said year, but such debts can not be con-

sidered or returned as worthless until after legal proceedings to recover the same have proved fruitless, or it clearly appears that the debtor is insolvent, and that proceedings to collect the debt would avail nothing. In making the deduction for worthless debts, the person claiming the same must state in his return that one of the facts as above set forth exists in connection with the debt returned as worthless."

The regulations (p. 157), add to this: "No debts contracted prior to the year for which return is made can be deducted." To same effect is Ruling March, 1895.

If a credit of 1894 is found in 1895 to be absolutely worthless cannot the cost of the material be deducted under Deduction 9?

These words under the old law were held to allow a deduction where the debt is ascertained in a subsequent year to be worthless. See 7 Int. Rev. Rec. 60; 11 Id. 105; 9 Id. 41.

9. "Cost price of material purchased for manufacture or resale, not increasing stock on hand Dec. 31, 1893."

The statute says in "operating and business expenses are included "expenses for materials purchased for manufacture or bought for resale" by corporations.

The regulations made no specific mention of the above.

Material purchased and paid for in 1893 could not be considered as an expense of 1894. But under item 1 in the gross receipts and credits of 1894 will be included sales in 1894 of stock on hand at end of business Dec. 31, 1893. Deduction should be allowed for cost of this old stock, and the deduction is made under this item 9. Under it will be deducted the cost price of material sold in 1894 which was purchased for manufacture or resale prior to Jan. 1, 1894, and, therefore, "not increasing stock on hand Dec. 31, 1893." All material purchased Jan. 1, 1894 would be "increasing stock on hand Dec. 31, 1893," and purchases of material made in 1894 on or after Jan. 1st perhaps could not be deducted under this item but could be under item 5. See p. 49.

10. "*Dividends, heretofore included in the statement of profits, under paragraph 13, received from corporations, companies, or associations, on which the tax of two per centum has once been paid by such corporation.*"

The law has been amended (Feb. 21, 1895) so as to allow the deduction whether the tax has been paid by the corporation or not. The amendment reads as follows:

"*Resolved,* That in computing incomes under

said Act the amounts received as dividends upon the stock of any corporation, company, or association shall not be included in case such dividends are also liable to the tax of two per centum upon the net profits of said corporation, company, or association, although such tax may not have been actually paid by said corporation, company, or association at the time of making returns by the person, corporation, or association receiving such dividends."

Question 1. "*Had your wife, or any minor child or children of yours, any income last year?*"

See page 90.

Question 2. "*Have you included such income or incomes in this return?*"

See page 90.

Question 3. "*Have you kept books of account?*"

See page 42.

Question 4. "*Is your income herein estimated, or taken from your books?*"

See page 43.

Question 5. "*What are the particular items of "Losses" set forth by you opposite paragraph 6 of "Deductions" and where did each occur?*"

See instruction 12, on page 76.

Question 6. "*Are you a citizen of the United States, and what is your occupation?*"

Question 7. "*How did you determine that debts contracted by you as "worthless" could not be collected?*"

See instruction No. 17, on page 78.

Question 8. "*What were the "necessary expenses" and the amount of each class, included in the amount set opposite paragraph 5 of "Deductions?*"

CHAPTER XI.

EXPLANATIONS OF BLANKS FOR CORPORATIONS.

I.

1. "*Gross receipts, credits, earnings, and gains from any business, or any interest therein, wherever carried on.*"

See item 1 of blanks for persons on page 79.

2. "*From interest or coupons, due or paid on any bonds, or other evidences of indebtedness of any coporation, company, or association.*"

See item 12 of blanks for persons on page 88.

3. "*From dividends or interest on the stock, capital, or deposits of any corporation, company, or association.*"

See item 13 of blanks for persons on page 89, which has "paid or accrued" between "interest" and "on." Probably the two will be construed the same.

See item 14 on page 112 for amendment of Feb. 21, 1895, allowing deductions.

4. "*From undivided profits of any corporation, company, or association.*"

There is no similar question in blanks for

persons. By item 14 below, deduction can be made of amounts received under this and the previous item, from corporations which have paid, or are liable to, a tax on it.

See amendment of Feb. 21, 1895, given under item 14 on page 112.

Unless this item refers to a distribution or dividend received from undivided profits, there would be a double taxation, for by section 32 corporations must pay on amounts "carried to the account of any fund," i. e., undivided profit account, etc., and deduction can be made only for dividends "*received.*"

5. "*From premium on bonds, stocks, notes, or coupons.*"

See item 6 of blanks for persons on page 84.

6. "*From commissions, or percentage.*"

There is no similar question in the blanks for persons. This seems to refer in part to sales on commission, by brokers, consignees, and the like

Under this item would be included the amount of the commissions and under the deductions the various operating and business expenses.

In case of sales under a *del credere* or guarantee commission, the amount of the commission could be entered under this item, and in case of a loss through a sale on credit, the

amount of the loss could be deducted under item 12, par. 2, on page 108.

7. "*From interest on notes, bonds, or other securities of the United States, except such bonds of the United States the principal and interest of which are exempt from Federal taxation.*"

This will include interest either received or accrued.

The interest exempt under this item is that on bonds of the funded loan of 1891 continued at two per cent; the four per cent funded loan of 1907; and the five per cent loans of 1904.

8. "*From interest received or accrued on all notes, bonds, mortgages, or other forms of indebtedness not included in the foregoing items.*"

In the similar item (No. 11 on page 87) in blanks for persons are the words of the statute, "whether paid or not if good and collectible." Probably this item will be construed in a similar manner by the Department.

Interest on State, county, and municipal bonds may possibly be exempt. See the Collector *v.* Day, 11 Wall., 113, and U. S. *v.* R. R. Co., 17 Id. 322.

9. "*From profits realized within the year*

from sales of real estate purchased since Dec. 31, 1892."

10. "*From rents received or accrued.*"

11. "*From all sources not above enumerated (specifying same), viz.*"

The statute (Sec. 32) provides that "The net profits shall include the amounts paid to shareholders, or carried to the account of any fund or used for construction, enlargement of plant, or any other expenditure or investment paid from the net annual profits made or acquired by said corporations, companies, or associations."

If the above requires that the whole amount of dividends paid shall be included as profit of the year, the corporation would have to include under this item the amount taken for dividends from other than profits of that year, or from undivided profits of previous years, etc.

If the above requires that only so much of the dividends paid shall be included as shall have been paid from the net annual profits there would be included under 1 on page 3 only so much of the dividends declared or paid as came from the profits of the year.

In case the latter should be held as the true interpretation, persons or corporations receiving such dividends could deduct (under 10 of Persons and 13 of Corporations) only the part of the dividends received on which the tax

had been paid by the corporation declaring the dividends. See item 1 on p. 3 of corporation blank on page 117, that amounts from surplus, etc., are not taxed.

II.

Deductions.

12-1. "*Interest paid or accrued within the year on bonded or other indebtedness.*"

12-2. "*Losses actually sustained during the year.*"

The statute says simply "losses."

The regulations say (III) "Losses actually sustained during the year, arising from fires, storms, or shipwreck, and not compensated for by insurance or otherwise, specifying the character and amount of each loss."

The statute as to deductions of losses by persons includes also losses "incurred in trade."

In case of a sale of merchandise the amount would be entered under item 1 as a gross receipt or credit, and under 7 and 8 or wholly under 7 of "operating and business expenses" would be deducted the cost of the material; thereby allowing for a loss.

In case of a sale of stocks in another corporation, for example, can not a loss be deducted under this item? It could by persons under item 6 explained on page 95.

As the word is general —"losses"—cannot all losses be deducted, whether by robbery or otherwise?

Would the Commissioner have power to make regulations which would *exclude* certain losses?

12-3. "*State, county, municipal, or town taxes accrued during the year 1894 and actually paid.*"

The statute (Sec. 32) says: "State, county, municipal, and town taxes paid by corporations, companies, or associations, shall be included in the operating and business expenses."

The regulations say: "State, county, or municipal taxes actually paid during the year, not including assessments for local benefits."

Can taxes due in 1893 but paid in 1894 be deducted?

Under this item such taxes cannot. Under the old law it was held (7 Int. Rev., Sec. 60) that taxes due in one year but paid in the next, could not be deducted for year when they were due, and also (11 Int. Rev., Sec. 98) that they could be deducted for the year they were paid.

Can taxes which are for local benefits be deducted? The statute as to deductions by persons states that they cannot be deducted. There is no such provision in the above quoted statute as to deductions by corporations but perhaps under the general words of the law the

Commissioner can decide what taxes can be deducted. See also item 3 of Deductions by Persons on page 94.

12-4. "*Salaries, compensation, or pay of officers or other persons employed during the year.*"

The regulations (page 26) add to this "and actually paid." Question 3 on page 3 of the blank asks if the salaries were actually paid within the year.

According to the above, salaries etc. of persons employed during 1894 but not paid then, cannot be deducted from the return of 1894. If they are paid in 1895 can they be deducted in return for 1895 under "4" if the persons are employed also during 1895, or under "8" as an operating or business expense?

12-5. "*Rents, or necessary repairs, but not including amount used for construction or enlargement of plant.*"

The statute (Sec. 32) says: "for construction, enlargement of plant."

The regulations (page 147) say: . . . for construction, enlargement, or betterment of plant."

The statute (Sec. 28) as to persons refers to "new buildings, permanent improvements, or betterments."

These provisions are substantially the same. Under similar wording of the old law it was held (5 Int. Rev. Rec., 130) that "per-

manent improvements" and "betterments" are very nearly synonymous in meaning and refer to that class of improvements which permanently increases the value of property upon which they are made, while "repairs" are those improvements made or work done upon property which serve merely to prevent its becoming useless or depreciating in value.

12-6. "Actual losses on sales of real estate purchased since Dec. 31, 1892."

The regulations contain no specific provision for such a deduction by a corporation. The statute refers simply to "losses," and may leave it to the Commissioner to determine what losses are "operating and business expenses." Therefore it may be the deductions for losses on real estate are different for corporations and individuals. But see 7 of deductions by persons.

12-7. "Cost price of material purchased for manufacture or resale, not increasing stock on hand Dec. 31, 1893."

See item 9 of Deductions by Persons, page 100.

The statute says in "operating and business expenses" are included "expenses for material purchased for manufacture or bought for resale."

12-8. "Other expenses not above enumerated, viz."

The regulations say: "Other necessary business expenses, not above enumerated, which must be fully set forth in the return, designating not only the amount of such expenses, but the purpose for which each expenditure was made."

Under this item perhaps should be deducted, among other things, the cost price of material purchased and paid for in 1894 for manufacture or resale; or else all under 7.

13. "*Net profits or income over operating and business expenses.*"

As appears from blank (page 72) this is obtained by deducting the "Total Operating and Business Expenses" from "Total Receipts, Gains and Income."

14. "*Dividends and gains heretofore included in the statement of profits under paragraphs 3 and 4, received from corporations, companies, or associations, on which the tax of two per centum has once been paid by such corporation, etc.*"

The law has been amended (Feb. 21, 1895), so as to allow the deduction whether the tax has been paid by the corporation or not. The amendment reads as follows:

"*Resolved*, That in computing incomes under said Act the amounts received as dividends upon the stock of any corporation, company, or association shall not be included in case

such dividends are also liable to the tax of two per centum upon the net profits of said corporation, company, or association, although such tax may not have been actually paid by said corporation, company, or association at the time of making returns by the person, corporation, or association receiving such dividends."

15. "*Amount paid in salaries, or other compensation or pay of officers or other persons employed, not including salaries of more than four thousand dollars.*"

16. "*Amount paid in salaries or other compensation, or pay of officers or other persons employed, including only salaries of more than four thousand dollars.*"

17. "*Name and address of each person to whom a salary of more than four thousand dollars was paid, and the amount paid to such person.*"

The amendment adopted Feb. 21, 1895, says: "And returns, or reports, of the names and salaries of employes shall not be required from employers, unless called for by the collector in order to verify the returns of employes."

III.

The following seven items on page 3 of the blank are intended to cover the net profits as found by the items of page 2 of the blank,

and to find out what disposition has been made of these net profits.

They are framed from "Fourth" of Sec. 35, which states that return must be made of "The amount paid on account of interest, annuities, and dividends stated separately." And from the following paragraph from Sec. 32: "The net profits or income of all corporations, companies, or associations shall include the amounts paid to shareholders, or carried to the account of any fund, or used for construction, enlargement of plant, or any other expenditure or investment paid from the net annual profits made or acquired by said corporations, companies, or associations." This last paragraph seems to provide that "The net profits or income shall include:"

(1) "The amounts paid to shareholders . . . from the net annual profits."

(2) "The amounts carried to any fund . . . from the net annual profits."

(3) "The amounts used for construction . . . from the net annual profits."

(4) "The amounts . . . used for . . . enlargement of plant . . . from the net annual profits."

(5) "Or any other expenditure or investment paid from the net annual profits."

Under a law taxing profits used for construction, it was held that the percentage of

depreciation would vary with the different railroads, so as to prevent the adoption of any fixed percentage as a proper allowance, and the rule was held to be that all sums expended for the purpose and with the result of keeping the property up to its average value, or its average value at the beginning of the period under consideration, should be allowed as expenses. And if any company had failed to expend a sum sufficient to keep its property up to such value, it should be allowed to set aside as not property included in the profits such sum as would have been expended had such repairs been made.

8 Int. Rev. Rec., 19.

The Supreme Court (Grant *v.* R. R., 93 U. S., 225) held that this expression,—"profits used in construction," did not embrace earnings expended in repairs for keeping the property up to its normal condition, but had reference to new constructions adding to the permanent value of the capital; and when these are made to take the place of prior structures, it includes only the increased value of the new over the old when in good repair.

As under Sec. 32, the tax is on "the amounts used for construction . . . from the net annual profits" a similar interpretation might be made.

Under item 12, par. 5, or item 12, par. 2, it

might be proper for corporations to deduct the amount used, or which would have to be used, in keeping the property up to its normal condition; that is, the amount used in repairs or carried to repair fund, or depreciation fund, and the like.

The Resolve Feb. 21, 1895, provided "That in computing incomes under said Act, the amounts necessarily paid for fire-insurance premiums and for ordinary repairs shall be deducted." This is not opposed to such a construction. It was expressly provided by Sec. 29 that there could be no "estimated depreciation of values" by persons, and this resolve allows all persons, whether in trade or not, to deduct amount necessarily paid for ordinary repairs. It seeks to enlarge the deductions by persons, not to restrict those by corporations.

An allowance for estimated depreciation by a railroad seemed sanctioned in Little Miami R. R. *v.* U. S., 108 U. S., 277.

The statute (Sec. 32) says "above *actual* operating and business expenses;" but the word "losses" is not limited.

1. "*Dividends declared or paid on stock, capital, or deposits, etc.*"

The statute (Sec. 32) says: "Net profits or income . . . shall include the amounts paid to shareholders."

The statute (Sec. 35) requires the return to state "The amount *paid* on account of interest, annuities, and dividends, stated separately."

The total amounts under this item and the six following items make the "Total Net Profits," and should correspond with the "Amount of Net Profits or Income Liable to Tax" under item 14 on page 2 of the blank.

Unless the dividends here included are those which are declared during the year, although all amounts may not have been actually paid to stockholders, the net profits, above stated, on the two pages would not correspond.

For the same reason the dividends declared or "paid" would seem to be confined to those on the business of the year covered by the questions on page 2 of the blank. The Regulations (p. 22) state that the return shall include the net profits "received in the year 1894." See also U. S. *v.* Bank, 24 Fed. Rep. 577; Merchants Ins. Co. *v.* McCartney, 1 Lowell 447. But see 2 Int. Rev. Rec. 44, 68. The words of the Supreme Court in Bailey *v.* R. R. Co. 106 U. S. 115 were: ". . . no proof would be admissible for the purpose of avoiding the tax that no earnings had in fact been made. The law conclusively assumes in such a case that a dividend declared and paid is a dividend earned."

See No. 14 on page 112 and No. 10 on page 101.

It seems from the debate, Congressional Record, June 27, 1894, p. 6888, that the Senate may have understood it to refer merely to the net annual profits, and not to include payments from surplus of a preceding year.

The Department has recently (March, 1895) ruled that no tax is due on dividends, or parts of dividends from earnings, of years before 1894.

2. "*Annunities declared or paid on bonds, stock, capital, or policies.*"

The first word is undoubtedly a misprint for "annuities," which are required by section 35 to be stated separately.

3. "*Interest paid on shares, stocks, capital, or deposits.*"

Sec. 35, as stated under "1" above, requires "interest" to be stated separately. Sec. 32 provides that in expenses can be included "interest on bonded or other indebtedness," so that all interest cannot be included as "profit." The draft as first read in the Senate provided for a tax on interest paid where certain corporations were (Cong. Rec. 6831) "indebted for any money for which bonds or other evidence of indebtedness have been issued." In the new draft on same page of the Record this becomes "and interest on bonded or other

indebtedness." These above questions seem to imply that interest on deposits cannot be deducted under item 12, par. 1, on page 108, but is paid out of profits.

4. "*Undivided profits, over dividends declared or paid, on hand or carried to the account of surplus or other fund.*"

That is, undivided profits from the business of the year for which return is made.

5. "*Amount of net profits or income used for construction.*"

That is, net profits or income of the year for which return is made.

6. "*Amount of net profits or income used for enlargement, betterment, or permanent improvement of plant.*"

That is, net profits or income of the year for which return is made.

See page 110 for "betterment," etc.

7. "*Amount of net profits or income used for other expenditures, or investment.*"

That is, net profit or income of the year for which return is made.

IV.

Question 1. "*Has the corporation, company, or association for which this return is made, kept full, regular, and accurate books of account, upon which all its transactions were*

entered from day to day for the full period covered by this return?"

Sec. 36 requires the corporation to keep such books.

Question 2. "*Is this return made exclusively from said books?*"

Question 3. "*Have the full amounts set forth in this return as salaries of officers and pay to employes been actually paid within the year covered by this return to bona fide officers and employes of this corporation, company, or association for services actually rendered?*"

Question 4. "*What are the particular items of losses included in the amount set opposite paragraph 2 under 'Operating and Business Expenses' on page 2 of this return, and when did each occur?*"

See remarks on paragraph 2 on page 2 of blank.

CHAPTER XII.

I.

FORMS FOR PERSONAL BLANKS.

No. 1.

Annual return of gains, profits, and income received by or accrued to [*John Doe*], of [*Boston*], in the County of [*Suffolk*] and [*3rd*] District of the State of [*Massachusetts*], from the first day of January, 1894, to the thirty-first day of December, 1894, both days inclusive, pursuant to the provisions of the Internal Revenue Laws.

No. 2.

Annual return of gains, profits, and income received by or accrued to [*John Doe, Trustee*], of [*Boston*], in the County of [*Suffolk*] and [*3rd*] District of the State of [*Massachusetts*] [*Richard Roe of Cambridge, Mass., Beneficiary*] from the first day of January, 1894, to the thirty-first day of December, 1894, both days inclusive, pursuant to the provisions of the Internal Revenue Laws.

Or [*John Doe, Executor of the will of Thomas Jones*]; or [*John Doe, Administrator of the estate of Thomas Jones*]; or [*John Doe, Agent*]; or [*John Doe, Receiver.*]

In case of a corporation, it would be similar with name of corporation where name of John Doe is. The form for a guardian would be similar with "Guardian" in place of "Trustee," and "Ward" in place of "Beneficiary."

No. 3.

State of [*Massachusetts*] }
County of [*Suffolk*] } *ss:*

[*John Doe*], being duly sworn, on his oath (or affirmation), deposes and says that the foregoing return contains a full, true, particular, and correct account of all gains, profits, or income received by or accrued to [*him*] from the first day of January, 1894, to the thirty-first day of December, 1894, both days inclusive, and that said return contains a true account of all his income from every source, whether derived from any kind of property, rents, interest, dividends, undivided profits, wages, or salary, or from any trade, profession, employment, or vocation, or from any other source whatever, during said year; and that he has not received from any or all sources of income together, any other sum for the said year besides what is herein set forth in detail; and that each item stated under the head of Deductions is correct, and he is honestly and truly entitled to make all the deductions from his income for said year as specifically stated in detail, and that the written answers to the above questions are true.

Sworn to and subscribed before me this——day of——, 1895. } [*John Doe*],

No. 4.

State of [*Massachusetts*] }
County of [*Suffolk*] } *ss.*

[*John Doe, Trustee as aforesaid,*] being duly sworn, on his oath (or affirmation), deposes and says that the foregoing return contains a full, true, particular, and correct account of all gains, profits, or income received by or accrued to [*him as such Trustee*] from the first day of January, 1894, to the thirty-first day of December, 1894, both days inclusive, and that said return contains a true account of all his income from every source, whether derived from any kind of property, rents, interest, dividends, undivided profits, wages, or salary, or from any trade, profession, employment, or vocation, or from any other source whatever, during said year; and that he has not received from any or all sources of income together, any other sum for the said year besides what is herein set forth in detail; and that each item stated under the head of Deductions is correct, and he is honestly and truly entitled to make all the deductions from his income for said year as specifically stated in detail, and that the written answers to the above questions are true.

Sworn to and subscribed before me this——day of——, 1895. } [*John Doe, Trustee for Richard Roe.*]

No. 5.

AFFIDAVIT NO. 1.— Where no return is made on page 2 of this blank, or where the return shows a net income of only $4,000 or less, the following statement must be sworn to and subscribed.

State of [*Massachusetts*],
County of [*Suffolk*], } *ss.*

[*John Doe*], being sworn according to law, deposes and says that in the year 1894, from January first to December thirty-first, [*he*] was not possessed of an income liable to be assessed according to the provisions of the Act of August 28, 1894, and that during said year [*his*] entire net income from every source, without any deduction or diminution whatever, did not exceed four thousand dollars.

No. 6.

AFFIDAVIT NO. 1. BY A TRUSTEE. ETC.

State of [*Massachusetts*],
County of [*Suffolk*], } *ss.*

[*John Doe of Boston, in said County, Trustee for Richard Roe of Cambridge, Mass.*], being sworn according to law, deposes and says that in the year 1894, from January first to December thirty-first, [*said Richard Roe*] was not possessed of an income liable to be assessed according to the provisions of the Act of August 28th, 1894, and that during said year [*said Roe's*] entire net income from every source, without any diminution whatever, did not exceed four thousand dollars.

Or [——— *Executor of the will of Thomas Jones* (*Richard Roe of Cambridge, Mass., Beneficiary*)]; or [——— *Administrator of Estate of Thomas Jones* (*Richard Roe of Cambridge, Mass., Beneficiary*)]; or [*Agent of Richard Roe of Cambridge, Mass.*]; or [*Receiver for Richard Roe of Cambridge, Mass.*]

A corporation affidavit would be [*John Doe, President of Boston Trust Company, Trustee for, etc.*

No. 7.

AFFIDAVIT NO. 2.—Where the person about to be assessed has already made and rendered a return of his entire income for said year in some other district, the following declaration is required to be made by the taxpayer, under oath or by affirmation.

State of [*Massachusetts*], }
County of [*Suffolk*], } *ss.*

[*John Doe*] being duly sworn, upon his oath or affirmation, deposes, says, and declares that all the gains, profits, and income accruing to [*him*] in the year 1894, were duly returned on the [*sixth*] day of [*February*], 1895, to . . . Collector [*3d*] District, State of [*Massachusetts*], and that the tax has been paid thereon to [*said*] . . . Collector of said district.

No. 8.

State of [*Massachusetts*], }
County of [*Suffolk*], } *ss.*

[*John Doe of Boston, in said County, Trustee for Richard Roe of Cambridge, Mass.*], being duly sworn, upon his oath or by affirmation, deposes, says, and declares that all the gains, profits, and income accruing to [*said Richard Roe*] in the year 1895, were duly returned on the [*sixth*] day of [*February*], 1895 to ——— Collector, [*3d*] District, State of [*Massachusetts*], and that the tax has been paid thereon to ———, Collector of said District.

The beginning of the affidavit by an executor, administrator, agent, receiver or corporation acting in a fiduciary capacity would be the same as in forms for affidavits No. 1 on page 124.

II.

FORMS FOR CORPORATION BLANKS.

No. 9.

The [*Boston Trust Company*] of [*Boston*] in the County of [*Suffolk*] and [*3d*] District of the State of [*Massachusetts*] makes and renders the following return of all gains, profits, or income received by or accrued to said [*Company*], from the first day of January, 1894, to the thirty-first day of December, 1894, both days inclusive, pursuant to the provisions of the Internal Revenue Laws.

No. 10.

Statement of all interest, annuities, and dividends declared due or paid to shareholders, stockholders, policy holders, or depositors by the [*Boston Trust Company*], from the first day of January, 1894, to the thirty-first day of December, 1894, both days inclusive, and of all undivided profits of said [*Company*]on hand or added to any fund, and amount of net annual profits, or income, of said [*Company*], used for construction, enlargement of plant, or any other expenditure or investment, paid from the net annual profits of said [*Company*] for said year, pursuant to the provisions of the Internal Revenue Laws.

No. 11.

State of [*Massachusetts*], }
County of [*Suffolk*], } *ss:*

I, [*John Doe,* President*], of the [*Boston Trust Company*] do swear (or affirm), that the foregoing return contains a true, full, regular, and accurate account of all the gains, profits, and income received by or accrued to said [*Company*], from the first day of January, 1894, to the thirty-first day of December, 1894, both days inclusive, and a true and complete statement of the net profits or income of said [*Company*] for said year, and the true amount and kind of operating and business expenses thereof; and of all dividends, interest, or annuities declared due or paid by said [*Company*]; and of all undivided profits thereof; and the amount of net profits or income used for construction, enlargement of plant, or investment, as therein specified; and that the above questions have been fully aud truthfully answered.

Sworn to and subscribed before me this——day of——, 1895. } [*John Doe,*
**President of the Boston Trust Company.*]

* "*President,*" "*Cashier,*" "*Secretary,*" *as the case may be, of resident corporations, etc.* "*Resident Manager,*" *or* "*Resident Agent,*" *as the case may be, of foreign corporations, etc.*

A foreign corporation could add at end after "answered:" "This return is for all business conducted by said Company in the United States."

CHAPTER XIII.

APPEALS AND REMEDIES.

For appeals from the decision of the collector or deputy collector, see Regulations, page 161.

There can be no appeal to the courts to test the validity of an assessment unless payment is made under protest in some form, as otherwise payment would be deemed voluntary; but while a written protest would in all cases be most convenient, there is no statutory requirement that the protest shall be made in writing. Wright *v.* Blakeslee, 101 U. S., 179.

U. S. REV. STAT., SEC. 3226. No suit shall be maintained in any court for the recovery of any internal tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, until appeal shall have been duly made to the Commissioner of (the) Internal Revenue, according to the provisions of law in that regard, and the regulations of the Secretary of the Treasury established in pursuance thereof, and a decision of the Commissioner has been had therein: *Provided*, That if such decision is delayed more than six months from the date of such appeal, then the

said suit may be brought, without first having a decision of the Commissioner at any time within the period limited in the next section.

U. S. REV. STAT., SEC. 3227. No suit or proceeding for the recovery of any internal tax alleged to have been erroneously or illegally assessed or collected, or of any penalty alleged to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, shall be maintained in any court, unless the same is brought within two years next after the cause of action accrued: *Provided*, That actions for such claims which accrued prior to June six, eighteen hundred and seventy-two, may be brought within one year from said date; and that where any such claim was pending before the Commissioner, as provided in the preceding section, an action thereon may be brought within one year after such decision and not after. But no right of action which was already barred by any statute on the said date shall be revived by this section.

U. S. REV. STAT., SEC. 3228. All claims for the refunding of any internal tax alleged to have been erroneously or illegally assessed or collected, or of any penalty alleged to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, must be presented to the Commissioner of Internal Revenue within two years next after the cause of action accrued: *Provided*, That claims which accrued prior to June six, eighteen hundred and seventy-two, may be presented to the Commissioner at any time within one year from said date. But nothing in this section

shall be construed to revive any right of action which was already barred by any statute on that date.

U. S. REV. STAT., SEC. 3229. The Commissioner of Internal Revenue, with the advice and consent of the Secretary of the Treasury, may compromise any civil or criminal case arising under the internal-revenue laws instead of commencing suit thereon; and, with the advice and consent of the said Secretary and the recommendation of the Attorney-General, he may compromise any such case after a suit thereon has been commenced. Whenever a compromise is made in any case there shall be placed on file in the office of the Commissioner the opinion of the Solicitor of Internal Revenue, or of the officer acting as such, with his reasons therefor, with a statement of the amount of tax assessed, the amount of additional tax or penalty imposed by law in consequence of the neglect or delinquency of the person against whom the tax is assessed, and the amount actually paid in accordance with the terms of the compromise.

CHAPTER XIV.

INCOME TAX.

REGULATIONS RELATIVE TO THE ASSESSMENT, LEVY AND COLLECTION OF THE TAX ON INCOMES, UNDER THE PROVISIONS OF THE ACT OF CONGRESS IN EFFECT AUGUST 28, 1894.

TREASURY DEPARTMENT,
OFFICE OF INTERNAL REVENUE,
Washington, December 13, 1894.

I.

The act of Congress entitled "An act to reduce taxation, to provide revenue for the Government, and for all other purposes," in effect August 28, 1894, provides, in section 27, that "from and after the first day of January, eighteen hundred and ninety-five, and until the first day of January, nineteen hundred, there shall be assessed, levied, collected, and paid annually upon the gains, profits, and income received in the preceding calendar year by every citizen of the United States, whether residing at home or abroad, and every person residing therein, whether said gains, profits, or income be derived from any kind of property, rents, interest, dividends, or salaries, or from any profession, trade, employment, or vocation, carried on in the United States or elsewhere, or from any other source

whatever, a tax of two per centum on the amount so derived over and above four thousand dollars, and a like tax shall be levied, collected, and paid annually upon the gains, profits, and income from all property owned and of every business, trade, or profession carried on in the United States by persons residing without the United States."

And that the tax therein provided for shall be assessed by the Commissioner of Internal Revenue, and shall be collected and paid upon the gains, profits, and income for the year ending the 31st day of December next preceding the time for levying, collecting, and paying said tax.

The first taxable year under the provisions of the law is the calendar year 1894, and the tax on incomes due and payable on or before the 1st day of July, 1895, shall be computed on the taxable incomes received in said year 1894, from the 1st day of January to the 31st day of December, both days included.

II.

Annual Returns of Persons,

TO BE MADE AND DELIVERED TO THE COLLECTOR ON OR BEFORE THE FIRST MONDAY OF MARCH IN EACH YEAR.

Under the provisions of said act, it shall be the duty of all persons of lawful age, having an annual income of more than $3500, computed on the basis prescribed by said act, to make and render a list or return on or before the first Monday of March in each year, in such form and manner as may be directed by

the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, to the collector or deputy collector of the district in which they reside, of the amount of their income, gains, or profits for said year.

All guardians, trustees, executors, administrators, agents, receivers, and all persons or corporations acting in any fiduciary capacity, shall make and render a list or return to the collector or deputy collector of the district in which such persons or corporations acting in a fiduciary capacity reside or do business, of the amount of the income, gains, or profits of any minor, or person for whom they act.

The annual returns of all persons liable by law to make and render a return, and the returns of all guardians, and persons or corporations acting in any fiduciary capacity, will be made on Form 365, and must be verified by oath or affirmation of the party making the same. Collectors are especially enjoined by the law to require every list or return to be verified by the oath or affirmation of the party rendering it. The affidavit may be made before the collector or deputy collector of the district, or before some officer having a seal and authorized by law to administer oaths. The collector, in all cases, must be satisfied of the authority of such officer before whom the affidavit is made.

Persons having less than $3500 annual income are not required to make such return, but in all cases where the annual income of any person exceeds the sum of $3500, whether it reaches the taxable limit or not, the list or return on Form 365 shall be made by such person, duly verified, and forwarded to the collector of his district.

The collector or deputy collector may increase the amount of any list or return, if he has reason to believe that the same is understated, and the person or corporation whose list is thus increased may be permitted to prove the amount of income liable to be assessed, but such proof shall not be considered as conclusive of the facts, and no deductions claimed in such cases shall be made or allowed until approved by the collector or deputy collector.

The annual returns of all persons, on Form 365, and of all corporations, companies, and associations, on Form 366, made on or before the first Monday in March of each year, will be forwarded by collectors to the Commissioner of Internal Revenue on or before the 15th of April following. Said returns, and all matters relating thereto, must be securely sealed in envelopes or packages, by collectors forwarding the same, and, with all returns of delinquents made and forwarded by collectors, and all data relating to returns of incomes, will be filed and securely and permanently retained in the office of the Commissioner of Internal Revenue.

GAINS, PROFITS, AND INCOME TO BE INCLUDED FOR TAXABLE PURPOSES IN THE ANNUAL RETURNS OF PERSONS.

In estimating the gains, profits, and incomes of any person for the purposes of taxation, under the provisions of section 28 of said act, there shall be included:

1. All incomes derived from interest upon notes, bonds, and other securities, except such bonds of the United States, the principal and interest of which are

by the law of their issuance exempt from all Federal taxation.

2. Profits realized within the year from sales of real estate purchased within two years previous to the close of the year for which income is estimated.

3. Interest received or accrued upon all notes, bonds, mortgages, or other forms of indebtedness bearing interest, whether paid or not, if good and collectible.

4. The amount of all premium on bonds, notes, or coupons.

5. The amount of sales of live stock, sugar, cotton, wool, butter, cheese, pork, beef, mutton, or other meats, hay and grain, or other vegetable or other productions, being the growth or produce of the estate of such person, less the amount expended in the purchase or production of said stock or produce, and not including any part thereof consumed directly by the family.

6. Money, and the value of all personal property acquired by gift or inheritance.

7. All other gains, profits, and income derived from any source whatever, except that portion of the salary, compensation, or pay received for services in the civil, military, naval, or other services of the United States, including Senators, Representatives, and Delegates in Congress, from which the tax has been deducted.

8. Where the salary or other compensation paid to any person in the employment or service of the United States shall not exceed the rate of $4000 per annum, or shall be by fees, or uncertain or irregular in the amount or in the time during which the same shall have accrued or been earned, such

salary or other compensation shall be included in estimating the annual gains, profits, or income of the person to whom the same shall have been paid.

DEDUCTIONS TO BE MADE IN COMPUTING INCOMES OF PERSONS.

Section 28 further provides that in computing incomes there shall be deducted:

1. The necessary expenses actually incurred in carrying on any business, occupation, or profession.

2. All interest due or paid within the year by such persons on existing indebtedness.

3. All national, State, county, school, and municipal taxes, not including those assessed against local benefits, paid within the year shall be deducted from the gains, profits, or income of the person who has actually paid the same, whether such person be owner, tenant, or mortgagor.

4. Losses actually sustained during the year, incurred in trade, or arising from fires, storms, or shipwreck, and not compensated for by insurance or otherwise.

5. Debts ascertained to be worthless, but excluding all estimated depreciation of values and losses within the year on sales of real estate purchased within two years previous to the year for which income is estimated.

NO DEDUCTION FOR IMPROVEMENTS.

Provided, That no deduction shall be made for any amount paid out for new buildings, permanent improvements, or betterments, made to increase the value of any property or estate.

DIVIDENDS ON STOCKS NOT INCLUDED IF PAID THEREON BY CORPORATIONS.

Provided also, That in computing the income of any person, corporation, company, or association there shall not be included the amount received from any corporation, company, or association, as dividends upon the stock of such corporation, company, or association if the tax of 2 per centum has been paid upon its net profits by said corporation, company, or association as required by this act.

ONLY ONE DEDUCTION OF $4000 FOR EACH FAMILY.

Provided further, That only one deduction of $4000 shall be made from the aggregate income of all the members of any family, composed of one or both parents, and one or more minor children, or husband and wife; that guardians shall be allowed to make a deduction in favor of each and every ward, except that in case where two or more wards are comprised in one family and have joint property interests the aggregate deduction in their favor shall not exceed $4000.

RETURNS OF NONRESIDENTS.

It is provided in section 31 of this act that "any nonresident may receive the benefit of exemption provided for in said act by filing with the deputy collector of any district a true list of all his property and sources of income in the United States, and otherwise complying with the provisions of section 29 of this act, as if a resident."

In computing income, such nonresident shall

include all income from every source, but unless he be a citizen of the United States he shall only pay on that part of the income which is derived from any source in the United States.

In case such nonresident fails to file such statement, the collector of each district shall collect the tax on the income derived from the property of such nonresident situated in his district, subject to income tax, making no allowance for exemption, and all property belonging to such nonresident shall be liable to distraint for said tax.

Nonresident corporations are subject to the same laws as to taxes as resident corporations, and the collection of the taxes shall be made in the same manner as provided for in the collection of taxes against nonresident persons.

A nonresident, in order to secure the exemption of $4000 provided by law, must make his list or return on Form 365, duly verified by his oath or affirmation, and deliver the same to the deputy collector of any district on or before the first Monday of March in each year.

WHEN COLLECTORS MAY MAKE RETURN.

1. If any person liable to pay an income tax for himself or others shall fail to make and deliver the return required by law, but shall consent to disclose the particulars of any business or occupation liable to pay such tax, it shall be the duty of the collector or deputy collector to make such list or return, which, being distinctly read and consented to, signed, and verified by oath or affirmation by the person liable to make said return, the same may be received as the list or return of such person.

2. In case any such person having a taxable income shall neglect or refuse to make or render such list or return, or shall render a willfully false or fraudulent return, it shall be the duty of the collector or deputy collector to make such list, according to the best information he can obtain by the examination of such person or any other evidence.

When duly certified by the collector, the said list thus prepared shall be the return of said person, upon which his tax shall be extended and assessed.

In case no annual list or return has been rendered by such person to the collector or deputy collector as required by law, and the person shall be absent from his or her residence or place of business at the time the collector or deputy collector shall call for the annual list or return, or on the date when such list should be returned, it shall be the duty of such collector or deputy collector to leave at such place of residence or business, with some one of suitable age or discretion, if such be present, otherwise to deposit in the nearest post-office, a notice addressed to such person, requiring him or her to render to such collector or deputy collector the list or return required by law within ten days from the date of such notice, verified by oath or affirmation, and if any person on being notified or required as aforesaid shall refuse or neglect to render such list or return within the time required, or delivers any return which, in the opinion of the collector, is false or fraudulent, or contains any undervaluation or understatement, it shall be lawful for the collector to summon such person, or any other person having possession, custody, or care of books of account containing entries relative to the business of such person,

or any other person he may deem proper, to appear before him and produce such books at the time or place named in the summons, and to give testimony or answer interrogatories under oath respecting any objects liable to tax or returns thereof. The collector may summon any person found or residing within the State in which his district lies. When the person intended to be summoned does not reside and can not be found within the State, he may enter any collection district in which the person is to be found and there make the examination herein authorized, and to this end he may there exercise all authority which he might lawfully exercise in the district for which he was commissioned.

The notice above required may be in substantially the same form as the notice hereinafter prescribed relative to parties charged with failure, neglect, or refusal to make true and correct annual returns. The party who serves the notice shall make a sworn return of service upon the back of the copy thereof, which copy and return shall be filed in the office of the collector of the district in which said person resides or is served.

PENALTY FOR NEGLECT OR REFUSAL TO MAKE ANNUAL RETURN, AND FOR FALSE OR FRAUDULENT ANNUAL LIST RETURNED.

In all cases of willful neglect or refusal to make and render a list or return as prescribed by law, it shall be the duty of the collector or deputy collector of the district to make such list, and to add 50 per cent as a penalty to the amount of tax due on such

list. In all cases of a willfully false or fraudulent list or return having been rendered, it shall be the duty of the collector or deputy collector to add 100 per cent as a penalty to the amount of tax ascertained to be due; the tax and the additions thereto as a penalty to be assessed and collected in the manner provided for in other cases of willful neglect or refusal to render a list or return, or for rendering a false or fraudulent list or return.

No penalty shall be assessed upon any person or corporation, company, or association for such neglect or refusal, or for making or rendering a willfully false or fraudulent return, except after reasonable notice of the time and place of hearing, so as to give the person charged the opportunity to be heard.

Before assessing a penalty upon any person for neglect or refusal to make the annual return required by law, or for making or rendering a false or fraudulent return, the collector or deputy collector making said return shall cause a notice, in form substantially as follows, to be served upon such person by delivering it or causing it to be delivered to him in hand, or by leaving it or causing it to be left at his usual place of abode, or by mailing or causing the same to be mailed to him at the post-office from which he receives his mail, at least ten days prior to the day of the hearing:

FORM 369.

To ——— ——— of ——— ———, in the county of ———, and State of ———:

You are hereby notified to appear at ———, in the county of ———, and State of ———, on the ——— day of ———, 18—, at —— o'clock in the —— noon, and show cause, if any you have, why the penalties prescribed by law shall not be assessed against you for neglect (or for refusal if it be a case of refusal, or for rendering a

willfully false or fraudulent list or return if such has been rendered) to make and render a true and correct return of your gains, profits, or income for the year 18—.

Dated at ——— this ——— day of ———, 18—.

———,

Collector (or Deputy Collector), District of ———.

The party who serves the notice should make a sworn return of service upon the back of the copy thereof, which return may be in substance as follows:

I certify that on the ——— day of ———, 18—, I gave in hand to the within named ——— ———, or I left at his last and usual place of abode, or I mailed to him at the post-office from which he receives his mail, an original notice of which the within is a true copy.

———.

Sucscribed and sworn to this ——— day of ———, 18—, before me,

———,

———.

The copy, with return of service thereon, shall be filed in the office of the collector of the district wherein such hearing is to be had. In case the return is to be made by the guardian, trustee, executor, or administrator, or by the attorney, agent, or partner of a nonresident or alien, or by any person or corporation acting in any other fiduciary capacity, the notice should be served upon him (or it) instead of upon his (or its) ward or cestui que trust, and there may be a change in the phraseology of the notice and return suited to the circumstances of the case.

Any person or corporation in his behalf, or in any fiduciary capacity, shall be permitted to declare under oath, in the form and manner prescribed in the affidavit designated as Affidavit No. 1, on Form 365, that he, or his (or its), ward or beneficiary was not possessed of an income of $4000 liable to be as-

sessed according to the provisions of said act; or may declare in Affidavit No. 2, on said form, that he, or his (or its), ward or beneficiary has been assessed and has paid an income tax elsewhere in the same year under the authority of the United States upon all his (or its) income, gains, or profits for which he (or it) is liable as such fiduciary.

If the collector or deputy collector shall be satisfied of the truth of the declaration, such person or ward thereof shall be exempt from the income tax in said district for that year.

In cases where the neglect to make the return required by law is occasioned by sickness, or necessary absence of the person required by law to make such return from his usual place of abode, the collector may allow such further time for making and delivering such return as he may deem necessary, not exceeding thirty days. Before extending the time for making and delivering such return, collectors should be informed by affidavit of such persons, or other evidence, that the failure to make or deliver such return was due solely to one or both of the causes above mentioned.

The collector of internal revenue is authorized under section 3173, Revised Statutes, as amended by this act, to issue his summons in case of refusal or neglect to make the returns, or in case of false or fraudulent returns, summoning any person having possession, custody, or care of books of accounts containing entries relating to the business of the person refusing to make such return or rendering such false or fraudulent return, to appear before him and to produce such books at the time and place mentioned in the summons, and to give testimony, under

oath, respecting all sources of incomes or profits of such person refusing or neglecting to make the said return.

The manner of service of summons is set forth in section 3174 of the Revised Statutes.

III.

CORPORATIONS.

TAX ON NET PROFITS OR INCOMES OF CORPORATIONS.

It is provided by section 32 of said act that "there shall be assessed, levied, and collected annually a tax of two per centum on the net profits or incomes above actual operating and business expenses, including expenses for materials purchased for manufacture or bought for resale, losses and interest on bonded and other indebtedness of all banks, banking institutions, trust companies, savings institutions, fire, marine, life, and other insurance companies, railroad, canal, turnpike, canal navigation, slackwater, telephone, telegraph, express, electric light, gas, water, street railway companies, and all other corporations, companies, or associations doing business for profit in the United States, no matter how created and organized."

The law includes all corporations, companies, and associations, both resident and foreign, doing business for profit in the United States, except only such corporations, companies, and associations as are specifically enumerated in this act as not liable to such taxation.

The exemption of $4000 allowed by law to individuals does not apply to corporations, associa-

tions, or companies. The entire net profits or incomes of such organizations doing business for profit are subject to an annual tax of two per cent.

Partnerships, as such, are not liable to taxation of firm or partnership profits or income, but each individual member of the partnership shall include his share of the partnership profits, gains, or income, in his individual list, where he is required by law to make return of his income for taxation.

Nonresident corporations are subject to the same laws as to taxation as resident corporations, and the collection of the tax shall be made in the same manner as provided for collection of taxes against nonresident persons. In computing income for taxation, nonresident corporations shall include in their annual returns the entire profits or income of such corporations derived from all business conducted in the United States, deducting the operating and business expenses incurred in conducting such business.

ANNUAL RETURNS OF CORPORATIONS.

Under the provisions of section 35 of said act, every corporation, company, or association doing business for profit, shall make and render to the collector of its collection district on or before the first Monday of March in each year, beginning with the year 1895, a full return, verified by oath or affirmation of its president or other chief officer, in such form as the Commissioner of Internal Revenue may prescribe, of the following matters for the whole calendar year last preceding the date of such return:

First. The gross profits of such corporation, company, or association, from all kinds of business of every name and nature.

Second. The expenses of such corporation, company, or association, exclusive of interest, annuities, and dividends.

Third. The net profits of such corporation, company, or association, without allowance for interest, annuities, or dividends.

Fourth. The amount paid on account of interest, annuities, and dividends, stated separately.

Fifth. The amount paid in salaries of $4000 or less to each person employed.

Sixth. The amount paid in salaries of more than $4000 to each person employed, and the name and address of each of such persons, and the amount paid to each.

The return required under the above named provisions will be made on Form No. 366, and shall be verified by the oath or affirmation of the president, cashier, manager, or managing agent of the corporation making said return. The oath or affirmation required shall be made before a collector or deputy, or some officer with a seal, who is authorized by law to administer oaths, and said return shall be delivered to the collector or deputy collector of internal revenue in the district in which the principal office or place of business of such corporation is situated, or mailed to the collector of said district in time to reach him, on or before the first Monday of March in each year.

The first return made by corporations under the provisions of said act shall be computed on the net profits or income of the corporation making said return, received in the year 1894, from the 1st day of January to the 31st day of December, both days included.

Operating and business expenses of corporations.—In the preparation of annual returns of corporations on Form 366, the operating and business expenses to be deducted from the gross receipts from all sources shall include:

1. Interest paid or accrued within the year on bonded or other indebtedness of such corporation.

2. Losses actually sustained during the year, arising from fires, storms, or shipwreck, and not compensated for by insurance or otherwise, specifying the character and amount of each loss.

3. State, county, or municipal taxes actually paid during the year, not including assessments for local benefits.

4. Salaries, compensation, or pay of officers or other persons employed during the year and actually paid.

5. Rents or necessary repairs, but not including any amount used for construction, enlargement, or betterment of plant.

6. Other necessary business expenses, not above enumerated, which must be fully set forth in the return, designating not only the amount of such expenses, but the purpose for which each expenditure was made.

Net profits of corporations.—The net profits or income of all corporations, companies, or associations shall include:

1. The amount of interest, annuities, dividends, and any other sums paid to stockholders or shareholders.

2. The amount of undivided profits on hand, or carried to the account of surplus or any other fund.

3. The amount used for construction.

4. The amount used for enlargement, betterment, or permanent improvement of plant.

5. Any and all expenditures or investments paid from any net annual profits.

The net annual profits of corporations, as well as the entire gross receipts thereof, and the deductions for operating and business expenses, shall be fully extended on pages 2 and 3 of Form No. 366, as in said form provided, and all questions contained on page 3 of said form must be carefully and correctly answered, and verified by oath of the president or other chief officer of said corporation.

BOOKS OF CORPORATIONS.

It is provided in said act, section 36, that "it shall be the duty of every corporation, company, or association, doing business for profit to keep full, regular and accurate books of account, in which all transactions shall be entered from day to day in regular order. Whenever the collector or deputy collector of the district in which any corporation, company, or association, shall be assessable, shall believe that a true and correct return of the income of such corporation, company or association has not been made, he shall make an affidavit of such belief, and of the grounds on which it is founded, and file the same with the Commissioner of Internal Revenue; and if said Commissioner shall, on examination thereof, and after full hearing, upon notice given to the parties, conclude there is good grounds for such belief, he shall issue a request in writing to such corporation, company, or association to permit an inspection of the books of such corporation, company, or association to be made."

"If such corporation, company, or association shall refuse to comply with such request, then the collector or deputy collector of the district shall make from such information as he can obtain an estimate of the amount of such income, and then add fifty per centum thereto, which said assessment so made shall then be the lawful assessment of such income."

The books required by this section shall be so kept, arranged, and balanced as to show the gross receipts, operating or business expenses, and net profits of the corporations, associations, or companies for each calendar year, beginning on the 1st day of January, and ending on the 31st day of December of said year.

When such corporation, company, or association refuses to comply with the request issued by the Commissioner of Internal Revenue, it shall be the duty of the collector to summon the president, or other officer of such corporation, company, or association, or any other person having possession, custody, or care of the books of said corporation, to appear before him, and to produce such books, at the time and place named in the summons, and to give testimony, and answer interrogatories on oath respecting them; and from the information thus gained, the collector may make the statement of the amount of such income, adding the prescribed penalty thereto.

PENALTY FOR FAILURE OF CORPORATION TO MAKE ANNUAL RETURN, AND FOR FALSE OR FRAUDULENT RETURN.

Under the provisions of section 32 of said act, "if the president or other chief officer of any corporation,

company, or association, and in case of any foreign corporation, company, or association the resident manager or agent, shall neglect or refuse to file with the collector of internal revenue for the district in which said corporation, company, or association shall be located or be engaged in business, a statement verified by oath or affirmation, in such form as shall be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, showing the amount of net profits or income received by such corporation, company, or association during the whole calendar year last preceding the date of filing said statement, the corporation, company, or association making default shall forfeit as a penalty the sum of one thousand dollars and two per centum on the amount of taxes due for each month until the same is paid, the payment of such penalty to be enforced as provided for in other cases of neglect or refusal to make return of taxes under internal-revenue laws."

According to the provisions of section 3176 of the Revised Statutes, as amended by said act, when any corporation, company, or association refuses or neglects to render a list or return, or renders a false or fraudulent return or list, the collector or any deputy collector shall make, according to the best information which he can obtain, including that derived from the evidence elicited by the examination of the collector, and on his own view and information, such list or return, according to the form prescribed, of the income liable to tax of such corporation, company, or association, and the Commissioner of Internal Revenue shall assess all income tax, and in case of any return of a false or fraudulent list or valuation intentionally

he shall add 100 per cent to such tax; and in case of a refusal or neglect, except in cases of sickness or absence, to make a list or return, or to verify the same as aforesaid, he shall add 50 per cent to such tax.

The penalties herein provided shall not be assessed upon any corporation, company, or association until after reasonable notice of the time and place of hearing has been given to the president or other chief officer of such delinquent corporation, so as to give said corporation an opportunity to be heard by its officers or agents.

The notice herein required may be substantially in the form prescribed in the case of persons for similar neglect or refusal, and served, returned, and filed in the same manner as in such cases of personal delinquency.

EXEMPT CORPORATIONS.

By the terms of said act, nothing therein contained shall apply to—

1. States, counties, or municipalities.

2. Corporations, companies, or associations organized and conducted solely for charitable, religious, or educational purposes, including fraternal beneficiary societies, orders, or associations operating upon the lodge system and providing for payment of life, sick, and other benefits to the members of such societies, orders, or associations, and dependents of such members.

3. The stocks, shares, funds, or securities held by any fiduciary or trustee for charitable, religious, and educational purposes.

4. Building or loan associations or companies which make loans only to their shareholders.

5. Savings banks and savings institutions or other societies which shall:

First. Have no stockholders or members except depositors and no capital except deposits.

Secondly. Which shall not receive deposits to the aggregate amount in any one year of more than $1,000 from the same depositor.

Thirdly. Which shall not allow an accumulation or total of deposits by any one depositor exceeding $10,000.

Fourthly. Which shall actually divide and distribute to its depositors ratable to deposits all their earnings over the necessary and proper expenses of such banks and institutions or societies, except such as shall be applied to surplus.

Fifthly. Which shall not possess in any form a surplus fund exceeding 10 per cent of its aggregate deposits.

6. Such savings banks, savings institutions, or societies composed of members who do not participate in the profits thereof, and which pay interest or dividends only to their depositors.

7. That part of the business of any savings bank, institution, or other similar association having a capital stock that is conducted on a mutual plan solely for the benefit of its depositors on such plan, and which shall keep its accounts of its business conducted on such mutual plan separate and apart from its other accounts.

8. Any insurance company or association which conducts all its business solely upon the mutual plan, and only for the benefit of its policy holders or members, and having no capital stock, and no stock or shareholders, and holding all property in trust and in reserve for its policy holders or members.

9. That part of the business of any insurance company, having a capital stock and stock and shareholders, which is conducted on the mutual plan, separate from its stock plan of insurance and solely for the benefit of the policy holders and members insured on such mutual plan, and holding all property belonging to and derived from said mutual part of its business in trust and reserve for the benefit of its policy holders and members insured on such mutual plan.

The exemption extended in the above-named provisions to corporations, companies, or associations, is intended for the benefit of the depositors, shareholders, and other beneficiaries of such corporations, companies, or associations. The corporations, as such, and all stockholders therein who own such stock as investment for capital or for speculative purposes, are not the intended beneficiaries of this exemption.

Collectors should carefully examine the articles of association, or charter, and business methods of all corporations claiming exemption, and where such are found to be operating upon any plan not specifically enumerated in the law extending such exemption, the collector will proceed to make return, if not made by such corporation, of the profits and income of such corporation, and to enforce the collection of taxes thereon, as in the case of other corporations.

IV.

Instructions Relative to Computing Incomes For Taxation.

1. The income tax must be paid to the collector or deputy collector in the district in which the taxpayer's annual income list is returned.

2. Expenses for medical attendance, store accounts,

family supplies, wages of domestic servants, cost of board, room, or house rent for family or personal use, are not expenses that can be deducted from the gross profits or income in making annual returns. It was manifestly the legislative intention that the $4,000 exempt from the payment of the income tax should cover all the above enumerated expenses, and all personal expenses for the maintenance of the family and household of the taxpayer receiving the benefit of the exemption.

3. Only one deduction of $4,000 can be allowed from the aggregate incomes of all the members of any family composed of parents, or parent, and minor children. It is not essential that the children live with the parents. A husband and wife are regarded as members of the same family, though living separately, unless separated by divorce or other operation of law, so as to break up the family relations. Where separate wards are not comprised in one family, guardians are allowed to make a deduction in favor of each and every ward. The parent, as natural guardian for a minor child, is required to make return for him, but where any other guardian or trustee has been appointed, return should be made by such guardian or trustee. If the minor has no guardian or trustee he should make return himself. If he refuses or neglects to make return, the same must be made by the collector.

4. The national, State, county, school, and municipal taxes deductible from incomes comprise such internal-revenue taxes as have not been included in the expenses of the business, and all such State, county, school, and municipal taxes as are assessed ratably upon all persons liable to such assessment;

but assessments made upon the real estate of a particular locality on account of street improvements, sewerage, street grade, or other improvements intended to benefit the particular property included in said locality, are not considered as taxes which may be deducted from incomes.

5. The interest on all bonds of the United States shall be returned as income by the person, corporation, company, or association owning or holding such bonds, except the interest on bonds of the funded loan of 1891, continued at 2 per cent; and the bonds of the 4 per cent funded loan of 1907; and the bonds of the 5 per cent funded loans of 1904, all of which are by the law of their issuance exempt, both as to principal and interest, from all Federal taxation.

6. In estimating the amount of taxable income, only such losses as shall have been actually suffered, and the amount of which has been definitely ascertained during the year covered by the return, can be deducted from the gross profits for that year. No deduction will be allowed for any losses not specifically described and set forth in the annual return of the person or corporation claiming the deduction.

7. Nonresidents are not entitled to the exemption of $4,000, or to any exemption whatever, unless they make out their annual lists and returns, duly verified by oath or affirmation, and deliver the same to the collector or deputy of the district wherein their property or business from which income is derived is situated, in the time prescribed in the case of residents.

8. Persons receiving fees or emoluments for professional or other services, as in the case of physicians or lawyers, should include all actual receipts for ser-

vices rendered in the year for which return is made, together with all unpaid accounts, charges for services, or contingent income due for that year, if good and collectible.

9. Costs of suits and other legal proceedings arising from ordinary business may be treated as other expenses of such business, and may be deducted from the gross profits thereof for the year only in which such proceedings were had and determined.

10. The annual return of merchants and manufacturers of their gains, profits, or income should cover the business of the year from the 1st day of January to the 31st day of December in the year for which return is made, and their books of account, stock records, and inventories should be kept and taken at such time and in such manner as to clearly show the gross profits, business expenses, net profits or income for the year ending at the close of business hours on the 31st day of December.

11. The interest accrued during the year on notes, bonds, or other evidences of indebtedness, if good and collectible at the end of the year, should be returned as income, whether actually collected or not. Dividends and interest payable in 1894 should be returned as income for that year, no matter when declared.

12. Debts which were contracted during the year 1894, but found in said year to be absolutely worthless, may be deducted from the income of the creditor in his annual return for said year, but such debts can not be considered or returned as worthless until after legal proceedings to recover the same have proved fruitless, or it clearly appears that the debtor is insolvent, and that proceedings to collect the

debt would avail nothing. In making the deduction for worthless debts, the person claiming the same must set forth in his return that the facts as above stated exist in connection with the debt returned as worthless. No debts contracted prior to the year for which return is made can be deducted.

13. No deduction can be made because of the diminished value, actual or estimated, of real estate, nor of stocks, bonds, or other personal property, while owned by the person making the return; nor for estimated depreciation of mines by the process of mining or otherwise. Rent from mines, or royalty thereon, is income, and should be included in annual returns.

14. Collectors should distribute, by mail or otherwise, blank Forms 365 to all persons in their respective districts having an annual income of more than $3,500, and to persons whose incomes may be supposed to reach more than said amount, and blank Forms 366 to all corporations doing business within their respective districts, as early as practicable after the 1st day of January in each year; but the failure of persons or corporations to receive such blanks, or the failure to receive any nótice that such returns should be made, or that any act enjoined by law should be complied with, can not be deemed a valid excuse for not making such return, or not complying with the provisions of law in the time and manner prescribed, and will not prevent or reduce the penalties imposed by law for such failure or neglect. Persons or corporations not supplied with blank forms for annual returns should apply for them to the collector.

V.

Tax on Salaries of Government Officers and Employes.

Section 33 of the said act provides "That there shall be levied, collected, and paid on all salaries of officers, or payments for services to persons in the civil, military, naval, or other employment or service of the United States, including Senators and Representatives and Delegates in Congress, when exceeding the rate of four thousand dollars per annum, a tax of two per centum on the excess above the said four thousand dollars: *Provided*, That salaries due to State, county, or municipal officers shall be exempt from the income tax herein levied."

Where the salary or compensation paid to any person in the service of the United States does not exceed the rate of $4,000 per annum, or does not reach that sum in the calendar year, or is paid in fees, or is uncertain or irregular in amount or in the time during which the same was earned or has accrued, such salary or compensation shall be included in estimating the annual gains or income of the person to whom the same was paid, and shall be entered on his annual return (Form No. 365) to the collector with his other sources of income.

All salaries or compensation paid to officers or persons in the employ of the Government of the United States in and for the calendar year 1894 shall be included in the annual returns to collectors, on Form 365, of such officers and persons, in statements of gains, profits, and incomes subject to income tax for that year.

All salaries paid by States, counties, or municipal-

ities to their public officers, whether paid in fixed amounts or by fees, are wholly exempt from income tax, and should not be included in the annual list or return of any person.

DUTIES OF DISBURSING OFFICERS.

"It shall be the duty of all paymasters and all disbursing officers under the Government of the United States, or persons in the employ thereof, when making any payment to any officers or persons as aforesaid, whose compensation is determined by a fixed salary, or upon settling or adjusting the accounts of such officers or persons, to deduct and withhold the aforesaid tax of 2 per cent; and the pay roll, receipts, or account of officers or persons paying such tax as aforesaid shall be made to exhibit the fact of such payment."

No deduction for tax will be made by paymasters or disbursing officers, in the payment of the salary of any officer or person in the employment of the United States Government, where the compensation of such officer or person is not by a fixed salary exceeding $4,000 per annum.

Paymasters and disbursing officers will deduct and withhold a tax of 2 per cent from all salaries and payments of every kind made in money to officers or other persons in the civil, military, naval, and any other employment in the service of the United States, including Senators and Representatives and Delegates in Congress, upon the excess of such salaries over the rate of $4,000 per annum.

Paymasters and disbursing officers of the Government will make no deduction for taxes from the salary or pay of any officer or person in the employ

of the United States for the year 1895, or thereafter, until the amount paid to any such officer or Government employe on account of such salary or employment has reached, in the aggregate for that calendar year, the sum of $4,000 when, from the first payment on the excess of said amount, or any part thereof, the paymaster or disbursing officer making the payment shall deduct and withhold the tax of 2 per cent on the entire amount of said excess of salary or compensation payable to such officer or employe for said year. The excess upon which the tax of 2 per cent is payable shall be ascertained by deducting the sum of $4,000 from the fixed annual salary or compensation.

The disbursing officer shall, when required, give to each person from whom the tax aforesaid is withheld a receipt in full for the amount withheld by him.

The amount withheld as aforesaid shall be paid by the disbursing officer withholding the same, within thirty days after the receipt thereof, to the collector or a deputy collector of internal revenue for the district in which such disbursing officer resides or in which such salary is paid or payable, and the collector shall receipt him therefor, and such receipt shall be sufficient evidence to the accounting officers of the Treasury Department when auditing the accounts of paymasters or disbursing officers, or any officer withholding his salary for moneys received by him, or when settling or adjusting the accounts of any such officer, that said taxes have been deducted and paid over to the officer of the United States authorized to receive the same.

All paymasters and disbursing officers of the United States Government who shall withhold the tax

aforesaid from the salary or compensation of any officer or employe of the Government shall, on the 1st day of each month, render a true statement of the amount of such tax, with the names and official designations of the persons paying the same, and the amount paid by each in the preceding month, to the Commissioner of Internal Revenue. Such statement shall be signed by the officer rendering the same, and be verified by his oath or affirmation to the effect that the same is a true and correct statement of all the taxes withheld by him for the preceding month, with the names and official designations of all the persons from whom said tax was withheld, and that said tax has been paid by him to a collector or deputy collector of internal revenue, giving the name of said collector or deputy and the district in which such payment was made.

VI.

Appeals Allowed in Certain Cases.

Under the provisions of section 29 of said act, any person, corporation, company, or association feeling aggrieved by the decision of the deputy collector, in cases where he has increased the list or return of such person, corporation, company, or association, or has refused to accept the declaration of any person, corporation, company, or association that he, or it, has been assessed and has paid an income tax elsewhere in the same year, or that he, or it, or any ward, had not a taxable income for said year; or where any deputy collector has made the annual list or return for such person, corporation, company, or association, and has added the penalty prescribed by law thereto, may appeal to the collector of the district,

and his decision thereon, unless reversed by the Commissioner of Internal Revenue, shall be final.

This appeal must be claimed of the deputy collector by giving him notice thereof within five days after his decision is rendered, and a written statement of the grounds of appeal, verified by oath of the appellant, must be filed with the collector to whom such appeal is taken within ten days of the time it was claimed, unless special reasons made under oath are shown, where such statement could not have been filed in that time. Of the sufficiency of these reasons the collector is to be the judge.

Whenever such valid reasons exists, the written statement herein required must be filed at the earliest practicable time, not exceeding thirty days from the decision of the deputy collector.

If any person, corporation, company, or association is dissatisfied with the decision of the collector, he or it may submit the case with all the papers to the the Commissioner of Internal Revenue for his decision, and may furnish the testimony of witnesses to prove any relevant facts, having served notice to that effect upon the Commissioner of Internal Revenue.

In such cases the appellant shall serve the notice of appeal upon the collector who rendered the decision and forward a copy of such notice with the certificate of service thereof to the Commissioner of Internal Revenue within five days from the date of such decision.

It shall be the duty of the collector, upon receiving the notice herein prescribed, to forward within five days thereafter all returns and other papers connected with said case to the Commissioner of Internal Revenue.

The notice to take depositions, required by said act to be served upon the Commissioner of Internal Revenue, shall accompany the notice of appeal, and shall state the time and place at which, and the officer before whom the testimony will be taken, the name, age, residence, and business of the proposed witness, with the questions to be propounded to the witness, or a brief statement of the substance of the testimony he is expected to give.

The Government, by the collector or any other officer or person designated by the Commissioner of Internal Revenue, may, at the same time and place, take testimony to rebut the testimony of the witnesses examined by the appellant. The notice to take testimony shall be delivered or mailed to the Commissioner of Internal Revenue a sufficient number of days previous to the date fixed for taking the deposition to allow him, after its receipt, at least five days, exclusive of the period required for mail communication with the place at which the testimony is to be taken, in which to give, should he so desire, instructions as to the cross-examination of the proposed witnesses.

The testimony or deposition shall be taken before a collector or deputy collector of Internal Revenue, unless it clearly appears from the statement of the appellant, under oath, that it is not practicable to take the same before such officer, and reasonable notice shall be given to such collector or deputy collector, of the time and place fixed for taking the deposition or testimony. The deposition or testimony aforesaid shall be securely sealed by the officer taking the same, and forwarded by mail to the Commissioner of Internal Revenue within five

days after the close of the taking of such testimony or deposition.

VII.

Penalty for Making Known the Amount or Source of Income.

Section 3167 of the Revised Statutes as amended by this act, provides that "it shall be unlawful for any collector, deputy collector, agent, or other officer or employe of the United States, to divulge or make known in any manner whatever not provided by law to any person the amount or source of income, profits, losses, expenditures, or any particular thereof set forth or disclosed in any income return by any person or corporation, or to permit any return or copy thereof, or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law.

"It shall be unlawful for any person to print or publish in any manner whatever not provided by law, any income return, or any part thereof, or the amount or sources of income, profits, losses, or expenditures appearing in any income return.

"Any offense against the foregoing provisions shall be a misdemeanor and be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding one year, or both, at the discretion of the court; and if the offender be an officer or employe of the United States, he shall be dismissed from office, and be incapable thereafter of holding any office under the Government."

Collectors are directed to call the attention of all officers and employes in their respective offices to this provision of the law, and to see that the same is carefully observed and rigidly enforced.

VIII.

Taxes Due and Payable on or Before July 1, in each Year.

Section 30 of said act provides that "taxes on incomes herein imposed shall be due and payable on or before the first day of July in each year, and on any sum or sums annually due and unpaid after the first day of July as aforesaid, and for ten days after notice and demand thereof by the collector, there shall be levied in addition thereto a sum of five per centum on the amount of taxes unpaid, and interest at the rate of one per centum per month on said tax from the time the same becomes due as a penalty, except on the estates of deceased, insane, or insolvent persons."

The notice and demand above mentioned will be given by the collector on Form 17, and the collector will observe care in serving all notices under the provisions of this act, that the lien may be perfected against the party liable, with interest, penalties, and costs, as provided by section 3186 of the Revised Statutes, as amended. The service of notice on the taxpayer, if not present, may be made by leaving the same at his residence or place of business with some person of suitable age or discretion, or by mailing, in which last case the service will be held to have been made on the day when the notice would have reached the taxpayer in due course of mail.

The payment of all taxes on gains, profits, or incomes for persons or corporations, when delinquent, will be enforced as in the case of the enforcement and collection of other taxes under the internal-revenue laws of the United States. (See secs. 3187 to 3219, Revised Statutes.)

RECEIPTS TO BE GIVEN BY THE COLLECTOR.

It is made the duty, under section 37 of this act, of every collector of internal revenue to whom any payment of income taxes is made to give the person making such payment a full written or printed receipt, expressing the amount paid and the particular account for which such payment was made. The receipt herein provided for shall be given on Form No. 1, Revised.

Collectors should set apart separate books of Form No. 1 for receipts for income taxes, that the stubs of said books when forwarded to the Commissioner of Internal Revenue may refer only to receipts given for this character of taxes.

Whenever payment of taxes is made such collector shall, if required, give a separate receipt for each tax paid by any debtor on account of payments made to or to be made by him to separate creditors, in such form that such debtor can conveniently produce the same separately to his several creditors in satisfaction of their respective demands to the amounts specified in such receipts.

Separate receipts may be given to guardians, trustees, agents, or other persons acting in any fiduciary capacity, for each of the wards, principals, or beneficiaries for which such guardian or other person may be acting.

IX.

INSTRUCTIONS RELATIVE TO ASSESSMENT LISTS, FORM 367.

On or before the 15th day of March in each year, the collector will prepare an assessment list for his

entire district covering all income taxes for the next preceding calendar year. This list will be on Form 367, and in triplicate, and will be in pamphlet form, as in case of lists on Forms 23 A and 23 B.

He will first enter the names of all persons liable to an income tax for the year, and will then enter the names of all corporations, companies, and associations so liable, all in alphabetical order, space being left after each group of names commencing with a certain letter for entering the names of other persons or corporations, as the case may be, whose returns may be expected before the list is forwarded as hereinafter provided.

The collector will enter the amounts returned on Forms 365 and 366 to his deputies as well as those made directly to himself, and all income taxes ascertained otherwise. In each case every fact necessary to enable the Commissioner to assess and determine the amount to be collected should be specified in the proper columns, including columns 9 and 10, and in the space headed "Remarks by the collector."

Each triplicate list will be a counterpart of the other two, except that the collector will mark across the top of one, in red ink, the word "Original," across the top of another the word "Duplicate," and across the top of the third the word "Triplicate."

Before sending the list to the Commissioner, the collector will make the entries on Form 367 in columns 2, 3, 4, 5, 6, 7, 8, 9, and 10, and in case the tax to be assessed is paid before the list is sent, in columns 16 and 17, as follows:

(1) Care should be taken that entries made on any one line of the original should be made on the corresponding line of the duplicate and triplicate.

(2) The collector will enter in column 2 the names of all persons, corporations, companies, and associations in his district liable to assessment of an income tax, including those liable to the penalty of 50 per cent for neglect to make return in due time, or of 100 per cent for making a false or fraudulent return.

(3) In giving the post-office address it is not necessary to state the county or township, but merely the post-office as found in the post-office directory, except in case the collection district is comprised, wholly or in part, within the limits of a city, when the street and number will be given in lieu of, or with, the post-office address.

(4) The calendar year 1894, or as the case may be for which the return is made, will be stated in figures in column 4. In order, however, that the character of the return may be more clearly identified, the collector will write in red ink across the top of the page upon which he begins the list of taxpayers who return on Form 365 the words "Personal income taxes," and also in red ink across the top of the page on which he begins the list of those who make returns on Form 366 the words "Income taxes of corporations, associations, and companies."

(5) In column 5 will be shown the gross amount of the income for the year as shown by Forms 365 or 366, or, in the absence of these returns, as ascertained in the manner provided by law and the regulations of this Department.

(6) In column 6 will be stated the aggregate of the deductions from the gross income authorized by law, and as set forth in the returns, Forms 365 and 366.

(7) In column 7 will be stated the net income for the year; that is to say, the taxable income which is ascertained by taking the amounts reported in column 6 from the amounts reported in column 5.

(8) In column 8 will be entered the amount of tax at 2 per cent computed on the net income reported in column 7.

(9) In column 9 the collector wfll state the date of the return on Form 365 or 366, as the case may be, and whether true or false. He may use the letter "T" to indicate that the return is true, and the letter "F" that it is false.

If the return is false, he will also state in what its falsity consists. As the assessment of the penalty of 100 per cent added to the amount of the tax ascertained to be due is to be made in all cases of a willfully false or fraudulent list or return, it is necessary that the Commissioner should be correctly informed on this point.

If the return is received after the first Monday in March the collector will state whether he has allowed further time on account of sickness or absence, and if so, how many days, and whether for sickness or for absence.

Letters containing explanations concerning items reported for assessment should be inclosed with the list on which the items are reported, and reference should be made to such letters under the heading "Remarks by collectors;" otherwise the explanations may not be received until after the list is made up and the "Original" forwarded to the collector.

The three copies of Form 367, prepared as above stated, will be disposed of as follows: Two copies, the "Original" and "Duplicate," will, on or before

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CHAPTER XV.

FULL TEXT OF THE UNITED STATES INCOME TAX LAW.

SEC. 27. That from and after the first day of January, eighteen hundred and ninety-five, and until the first day of January, nineteen hundred, there shall be assessed, levied, collected, and paid annually upon the gains, profits, and income received in the preceding calendar year by every citizen of the United States, whether residing at home or abroad, and every person residing therein, whether said gains, profits, or income be derived from any kind of property, rents, interest, dividends, or salaries, or from any profession, trade, employment, or vocation carried on in the United States or elsewhere, or from any other source whatever, a tax of two per centum on the amount so derived over and above four thousand dollars, and a like tax should be levied, collected, and paid annually upon the gains, profits, and income from all property owned and of every business, trade, or profession carried on in the United States by persons residing without the United States. And the tax herein provided for shall be assessed, by the Commissioner of Internal Revenue and collected, and paid upon the gains, profits, and income for the year ending the thirty-first day of December next preceding the time for levying, collecting, and paying said tax.

SEC. 28. That in estimating the gains, profits, and income of any person there shall be included

all income derived from interest upon notes, bonds, and other securities, except such bonds of the United States the principal and interest of which are by the law of their issuance exempt from all Federal taxation; profits realized within the year from sales of real estate purchased within two years previous to the close of the year for which income is estimated; interest received or accrued upon all notes, bonds, mortgages, or other forms of indebtedness bearing interest, whether paid or not, if good and collectible, less the interest which has become due from said person or which has been paid by him during the year; the amount of all premium on bonds, notes, or coupons; the amount of sales of live stock, sugar, cotton, wool, butter, cheese, pork, beef, mutton, or other meats, hay, and grain, or other vegetable or other productions, being the growth or produce of the estate of such person, less the amount expended in the purchase or production of said stock or produce, and not including any part thereof consumed directly by the family; money and the value of all personal property acquired by gift or inheritance; all other gains, profits, and income derived from any source whatever except that portion of the salary, compensation, or pay received for services in the civil, military, naval, or other service of the United States, including Senators, Representatives, and Delegates in Congress, from which the tax has been deducted, and except that portion of any salary upon which the employer is required by law to withhold, and does withhold the tax and pays the same to the officer authorized to receive it. In computing incomes the necessary expenses actually incurred in carrying on any busi-

ness, occupation, or profession shall be deducted and also all interest due or paid within the year by such person on existing indebtedness. And all national, State, county, school, and municipal taxes, not including those assessed against local benefits, paid within the year shall be deducted from the gains, profits, or income of the person who has actually paid the same, whether such person be owner, tenant, or mortgagor; also losses actually sustained during the year, incurred in trade or arising from fires, storms, or shipwreck, and not compensated for by insurance or otherwise, and debts ascertained to be worthless, but excluding all estimated depreciation of values and losses within the year on sales of real estate purchased within two years previous to the year for which income is estimated; *Provided*, That no deduction shall be made for any amount paid out for new buildings, permanent improvements, or betterments, made to increase the value of any property or estate: *Provided further*, That only one deduction of four thousand dollars shall be made from the aggregate income of all the members of any family, composed of one or both parents, and one or more minor children, or husband and wife; that guardians shall be allowed to make a deduction in favor of each and every ward, except that in case where two or more wards are comprised in one family, and have joint property interests, the aggregate deduction in their favor shall not exceed four thousand dollars: *And provided further*, That in cases where the salary or other compensation paid to any person in the employment or service of the United States shall not exceed the rate of four thousand dollars per annum, or shall be by fees, or

uncertain or irregular in the amount or in the time during which the same shall have accrued or been earned, such salary or other compensation shall be included in estimating the annual gains, profits, or income of the person to whom the same shall have been paid, and shall include that portion of any income or salary upon which a tax has not been paid by the employer, where the employer is required by law to pay on the excess over four thousand dollars: *Provided also*, That in computing the income of any person, corporation, company, or association there shall not be included the amount received from any corporation, company, or association as dividends upon the stock of such corporation, company, or association if the tax of two per centum has been paid upon its net profits by said corporation, company, or association as required by this Act.

SEC. 29. That it shall be the duty of all persons of lawful age having an income of more than three thousand five hundred dollars for the taxable year, computed on the basis herein prescribed, to make and render a list or return, on or before the day provided by law, in such form and manner as may be directed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, to the collector or a deputy collector of the district in which they reside, of the amount of their income, gains, and profits, as aforesaid; and all guardians and trustees, executors, administrators, agents, receivers, and all persons or corporations acting in any fiduciary capacity, shall make and render a list or return, as aforesaid, to the collector or a deputy collector of the district in which such person or corporation acting in a fidu-

ciary capacity resides or does business, of the amount of income, gains, and profits of any minor or person for whom they act, but persons having less than three thousand five hundred dollars income are not required to make such report; and the collector or deputy collector, shall require every list or return to be verified by the oath or affirmation of the party rendering it, and may increase the amount of any list or return if he has reason to believe that the same is understated; and in case any such person having a taxable income shall neglect or refuse to make and render such list and return, or shall render a willfully false or fraudulent list or return, it shall be the duty of the collector or deputy collector, to make such list, according to the best information he can obtain, by the examination of such person, or any other evidence, and to add fifty per centum as a penalty to the amount of the tax due on such list in all cases of willful neglect or refusal to make and render a list or return; and in all cases of a willfully false or fraudulent list or return having been rendered to add one hundred per centum as a penalty to the amount of tax ascertained to be due, the tax and the additions thereto as a penalty to be assessed and collected in the manner provided for in other cases of willful neglect or refusal to render a list or return, or of rendering a false or fraudulent return: *Provided*, That any person, or corporation in his, her, or its own behalf, or as such fiduciary, shall be permitted to declare, under oath or affirmation, the form and manner of which shall be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, that he, she, or his or

her, or its ward or beneficiary, was not possessed of an income of four thousand dollars, liable to be assessed according to the provisions of this Act; or may declare that he, she, or it, or his, her, or its ward or beneficiary has been assessed and has paid an income tax elsewhere in the same year, under authority of the United States, upon all his, her, or its income, gains, or profits, and upon all the income, gains, or profits for which he, she, or it is liable as such fiduciary, as prescribed by law; and if the collector or deputy collector shall be satisfied of the truth of the declaration, such person or corporation shall thereupon be exempt from income tax in the said district for that year; or if the list or return of any person or corporation, company, or association shall have been increased by the collector or deputy collector, such person or corporation, company, or association may be permitted to prove the amount of income liable to be assessed; but such proof shall not be considered as conclusive of the facts, and no deductions claimed in such cases shall be made or allowed until approved by the collector or deputy collector. Any person or company, corporation, or association feeling aggrieved by the decision of the deputy collector, in such cases may appeal to the collector of the district, and his decision thereon, unless reversed by the Commissioner of Internal Revenue, shall be final. If dissatisfied with the decision of the collector such person or corporation, company, or association may submit the case, with all the papers, to the Commissioner of Internal Revenue for his decision, and may furnish the testimony of witnesses to prove any relevant facts having served notice to that effect up-

on the Commissioner of Internal Revenue, as herein prescribed.

Such notice shall state the time and place at which, and the officer before whom, the testimony will be taken; the name, age, residence, and business of the proposed witness, with the questions to be propounded to the witness, or a brief statement of the substance of the testimony he is expected to give; *Provided*, That the Government may at the same time and place take testimony upon like notice to rebut the testimony of the witnesses examined by the person taxed.

The notice shall be delivered or mailed to the Commissioner of Internal Revenue a sufficient number of days previous to the day fixed for taking the testimony, to allow him, after its receipt, at least five days, exclusive of the period required for mail communication with the place at which the testimony is to be taken, in which to give, should he so desire, instructions as to the cross-examination of the proposed witness.

Whenever practicable, the affidavit or deposition shall be taken before a collector or deputy collector of internal revenue, in which case reasonable notice shall be given to the collector or deputy collector of the time fixed for taking the deposition or affidavit:

Provided further, That no penalty shall be assessed upon any person or corporation, company, or association for such neglect or refusal or for making or rendering a willfully false or fraudulent return, except after reasonable notice of the time and place of hearing, to be prescribed by the Commissioner of Internal Revenue so as to give the person charged an opportunity to be heard.

SEC. 30. The taxes on incomes herein imposed shall be due and payable on or before the first day of July in each year; and to any sum or sums annually due and unpaid after the first day of July as aforesaid, and for ten days after notice and demand thereof by the collector, there shall be levied, in addition thereto, the sum of five per centum on the amount of taxes unpaid, and interest at the rate of one per centnm per month upon said tax from the time the same becomes due, as a penalty, except from the estates of deceased, insane, or insolvent persons.

SEC. 31. Any non-resident may receive the benefit of the exemptions hereinbefore provided for by filing with the deputy collector of any district a true list of all his property and sources of income in the United States and complying with the provisions of section twenty-nine of this Act as if a resident. In computing income he shall include all income from every source, but unless he be a citizen of the United States he shall only pay on that part of the income which is derived from any source in the United States. In case such non-resident fails to file such statement, the collector of each district shall collect the tax on the income derived from property situated in his district, subject to income tax, making no allowance for exemptions, and all property belonging to such non-resident shall be liable to distraint for tax: *Provided*, That non-resident corporations shall be subject to the same laws as to tax as resident corporations, and the collection of the tax shall be made in the same manner as provided for collections of taxes against non-resident persons.

SEC. 32. That there shall be assessed, levied, and

collected, except as herein otherwise provided, a tax of two per centum annually on the net profits or income above actual operating and business expenses, including expenses for materials purchased for manufacture or bought for re-sale, losses, and interest on bonded and other indebtedness of all banks, banking institutions, trust companies, saving institutions, fire, marine, life, and other insurance companies, railroad, canal, turnpike, canal navigation, slack water, telephone, telegraph, express, electric light, gas, water, street railway companies, and all other corporations, companies, or associations doing business for profit in the United States, no matter how created and organized, but not including partnerships.

That said tax shall be paid on or before the first day of July in each year; and if the president or other chief officer of any corporation, company, or association, or in the case or any foreign corporation, company, or association, the resident manager or agent shall neglect or refuse to file with the collector of the internal revenue district in which said corporation, company, or association shall be located or be engaged in business, a statement verified by his oath or affirmation, in such form as shall be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, showing the amount of net profits or income received by said corporation, company, or association during the whole calendar year last preceding the date of filing said statement as hereinafter required, the corporation, company, or association making default shall forfeit as a penalty the sum of one thousand dollars and two per centum on the amount of taxes due, for each month until the same is paid, the pay-

ment of said penalty to be enforced as provided in other cases of neglect and refusal to make return of taxes under the internal revenue laws.

The net profits or income of all corporations, companies, or associations shall include the amounts paid to shareholders, or carried to the account of any fund, or used for construction, enlargement of plant, or any other expenditure or investment paid from the net annual profits made or acquired by said corporations, companies, or associations.

That nothing herein contained shall apply to States, counties, or municipalties; nor to corporations, companies, or associations organized and conducted solely for charitable, religious, or educational purposes, including fraternal beneficiary societies, orders, or associations operating upon the lodge system and providing for the payment of life, sick, accident, and other benefits to the members of such societies, orders, or associations and dependents of such members; nor to the stocks, shares, funds, or securities held by any fiduciary or trustee for charitable, religious, or educational purposes; nor to building and loan associations or companies which make loans only to their shareholders; nor to such savings banks, savings institutions or societies as shall, first, have no stockholders or members except depositors and no capital except deposits; secondly, shall not receive deposits to an aggregate amount, in any one year, of more than one thousand dollars from the same depositor; thirdly, shall not allow an accumulation or total of deposits, by any one depositor, exceeding ten thousand dollars; fourthly, shall actually divide and distribute to its depositors, ratably to deposits, all the earnings over the neces-

sary and proper expenses of such bank, institution, or society, except such as shall be applied to surplus; fifthly, shall not possess, in any form, a surplus fund exceeding ten per centum of its aggregate deposits; nor to such savings banks, savings institutions, or societies composed of members who do not participate in the profits thereof and which pay interest or dividends only to their depositors; nor to that part of the business of any savings bank, institution, or other similar association having a capital stock, that is conducted on the mutual plan solely for the benefit of its depositors on such plan, and which shall keep its accounts of its business conducted on such mutual plan separate and apart from its other accounts.

Nor to any insurance company or association which conducts all its business solely upon the mutual plan, and only for the benefit of its policy holders or members, and having no capital stock and no stock or shareholders, and holding all its property in trust and in reserve for its policy holders or members; nor to that part of the business of any insurance company having a capital stock and stock and shareholders, which is conducted on the mutual plan, separate from its stock plan of insurance, and solely for the benefit of the policy holders and members insured on said mutual plan, and holding all the property belonging to and derived from said mutual part of its business in trust and reserve for the benefit of its policy holders and members insured on said mutual plan.

That all State, county, municipal, and town taxes paid by corporations, companies, or associations, shall be included in the operating and business

expenses of such corporations, companies, or associations.

SEC. 33. That there shall be levied, collected, and paid on all salaries of officers, or payments for services to persons in the civil, military, naval, or other employment or service of the United States, including Senators and Representatives and Delegates in Congress, when exceeding the rate of four thousand dollars per annum, a tax of two per centum on the excess above the said four thousand dollars; and it shall be the duty of all paymasters and all disbursing officers under the Government of the United States, or persons in the employ thereof, when making any payment to any officers or persons as aforesaid, whose compensation is determined by a fixed salary, or upon settling or adjusting the accounts of such officers or persons, to deduct and withhold the aforesaid tax of two per centum; and the pay roll, receipts, or account of officers or persons paying such tax as aforesaid shall be made to exhibit the fact of such payment. And it shall be the duty of the accounting officers of the Treasury Department, when auditing the accounts of any paymaster or disbursing officer, or any officer withholding his salary from moneys received by him, or when settling or adjusting the accounts of any such officer, to require evidence that the taxes mentioned in this section have been deducted and paid over to the Treasurer of the United States, or other officer authorized to receive the same. Every corporation which pays to any employee a salary or compensation exceeding four thousand dollars per annum shall report the same to the collector or deputy collector of his district and said employee shall pay thereon, subject to

the exemptions herein provided for, the tax of two per centum on the excess of his salary over four thousand dollars: *Provided*, That salaries due to State, county, or municipal officers shall be exempt from the income tax herein levied.

SEC. 34. That sections thirty-one hundred and sixty-seven, thirty-one hundred and seventy-two, thirty-one hundred and seventy-three, and thirty-one hundred and seventy-six of the Revised Statutes of the United States as amended are hereby amended so as to read as follows:

SEC. 3167. That it shall be unlawful for any collector, deputy collector, agent, clerk or other officer or employe of the United States to divulge or to make known in any manner whatever not provided by law to any person the operations, style of work or apparatus of any manufacturer or producer visited by him in the discharge of his official duties, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any income return by any person or corporation, or to permit any income return or copy thereof or any book containing any abstract or particulars thereof, to be seen or examined by any person except as provided by law; and it shall be unlawful for any person to print or publish in any manner whatever not provided by law, any income return or any part thereof or the amount or source of income, profits, losses, or expenditures appearing in any income return; and any offense against the foregoing provision shall be a misdemeanor and be punished by a fine not exceeding one thousand dollars or by imprisonment not exceeding one year, or both, at the discretion of the court; and if the offender be an

officer or employe of the United States he shall be dismissed from office and be incapable thereafter of holding any office under the Government.

"SEC. 3172. That every collector shall, from time to time, cause his deputies to proceed through every part of his district and inquire after and concerning all persons therein who are liable to pay any internal revenue tax, and all persons owning or having the care and management of any object liable to pay any tax, and to make a list of such persons and enumerate said objects.

"SEC. 3173. That it shall be the duty of any person, partnership, firm, association, or corporation, made liable to any duty, special tax, or other tax imposed by law, when not otherwise provided for, in case of a special tax, on or before the thirty-first day of July in each year, in case of income tax on or before the first Monday of March in each year, and in other cases before the day on which the taxes accrue, to make a list or return, verified by oath or affirmation, to the collector or a deputy collector of the district where located, of the articles or objects, including the amount of annual income, charged with a duty or tax, the quantity of goods, wares, and merchandise made or sold, and charged with a tax, the several rates and aggregate amount, according to the forms and regulations to be prescribed by the Commissioner of the Internal Revenue, with the approval of the Secretary of the Treasury, for which such person, partnership, firm, association, or corporation is liable: *Provided*, That if any person liable to pay any duty or tax, or owning, possessing, or having the care or management of property, goods, wares, and merchandise, articles or objects liable to

pay any duty, tax, or license, shall fail to make and exhibit a list or return required by law, but shall consent to disclose the particulars of any and all the property, goods, wares, and merchandise, articles and objects liable to pay any duty or tax, or any business or occupation liable to pay any tax as aforesaid, then, and in that case, it shall be the duty of the collector or deputy collector to make such list or return, which, being distinctly read, consented to, and signed and verified by oath or affirmation by the person so owning, possessing, or having the care and management as aforesaid, may be received as the list of such person: *Provided further*, That in case no annual list or return has been rendered by such person to the collector or deputy collector as required by law, and the person shall be absent from his or her residence or place of business at the time the collector or a deputy collector shall call for the annual list or return, it shall be the duty of such collector or deputy collector to leave at such place of residence or business, with some one of suitable age and discretion, if such be present, otherwise to deposit in the nearest post-office a note or memorandum addressed to such person, requiring him or her to render to such collector or deputy collector the list or return required by law, within ten days from the date of such note or memorandum, verified by oath or affirmation. And if any person on being notified or required as aforesaid shall refuse or neglect to render such list or return within the time required as aforesaid or whenever any person who is required to deliver a monthly or other return of objects subject to tax, fails to do so at the time required, or delivers any return which, in the opinion of the collector, is false or fraudulent,

or contains any undervaluation or understatement, it shall be lawful for the collector to summon such person, or any other person having possession, custody, or care of books of account containing entries relating to the business of such person, or any other person he may deem proper, to appear before him and produce such books, at a time and place named in the summons, and to give testimony or answer interrogatories, under oath, respecting any objects liable to tax or the returns thereof. The collector may summon any person residing or found within the State in which his district lies; and when the person intended to be summoned does not reside and can not be found within such State, he may enter any collection district where such person may be found, and there make the examination herein authorized. And to this end he may there exercise all the authority which he might lawfully exercise in the district for which he was commissioned.

"SEC. 3176. When any person, corporation, company, or association refuses or neglects to render any return or list required by law, or renders a false or fraudulent return or list, the collector or any deputy collector shall make, according to the best information which he can obtain, including that derived from the evidence elicited by the examination of the collector, and on his own view and information, such list or return, according to the form prescribed, of the income, property, and objects liable to tax owned or possessed or under the care or management of such person, or corporation, company, or association and the Commissioner of Internal Revenue shall assess all taxes not paid by stamps, including the amount, if any, due for special tax, income or

other tax, and in case of any return of a false or fraudulent list or valuation intentionally he shall add one hundred per centum to such tax; and in case of a refusal or neglect, except in cases of sickness or bsence, to make a list or return, or to verify the same as aforesaid, he shall add fifty per centum to such tax. In case of neglect occasioned by sickness or absence as aforesaid the collector may allow such further time for making and delivering such list or return as he may deem necessary, not exceeding thirty days. The amount so added to the tax shall be collected at the same time and in the same manner as the tax unless the neglect or falsity is discovered after the tax has been paid, in which case the amount so added shall be collected in the same manner as the tax; and the list or return so made and subscribed by such collector or deputy collector shall be held prima facie good and sufficient for all legal purposes."

SEC. 35. That every corporation, company, or association doing business for profit shall make and render to the collector of its collection district, on or before the first Monday of March in every year, beginning with the year eighteen hundred and ninety-five, a full return, verified by oath or affirmation, in such form as the Commissioner of Internal Revenue may prescribe, of all the following matters for the whole calendar year last preceding the date of such return:

First. The gross profits of such corporation, company, or association, from all kinds of business of every name and nature.

Second. The expenses of such corporation, company, or association, exclusive of interest, annuities, and dividends.

Third. The net profits of such corporation, company, or association, without allowance for interest, annuities, or dividends.

Fourth. The amount paid on account of interest, annuities, and dividends, stated separately.

Fifth. The amount paid in salaries of four thousand dollars or less to each person employed.

Sixth. The amount paid in salaries of more than four thousand dollars to each person employed and the name and address of each of such persons and the amount paid to each.

SEC. 36. That it shall be the duty of every corporation, company, or association, doing business for profit, to keep full, regular and accurate books of account, upon which all its transactions shall be entered from day to day, in regular order, and whenever a collector or deputy collector of the district in which any corporation, company, or association is assessable shall believe that a true and correct return of the income of such corporation, company, or association has not been made, he shall make an affidavit of such belief and of the grounds on which it is founded, and file the same with the Commissioner of Internal Revenue, and if said Commissioner shall, on examination thereof, and after full hearing upon notice given to all parties, conclude there is good ground for such belief he shall issue a request in writing to such corporation, company, or association to permit an inspection of the books of such corporation, company, or association to be made; and if such corporation, company, or association shall refuse to comply with such request, then the collector or deputy collector of the district shall make from such information as he can obtain an estimate of the

amount of such income and then add fifty per centum thereto, which said assessment so made shall then be the lawful assessment of such income.

SEC. 37. That it shall be the duty of every collector of internal revenue, to whom any payment of any taxes other than the tax represented by an adhesive stamp or other engraved stamp is made under the provisions of this Act, to give to the person making such payment a full written or printed receipt, expressing the amount paid and the particular account for which such payment was made; and whenever such payment is made, such collector shall if required, give a separate receipt for each tax paid by any debtor, on account of payments made to or to be made by him to separate creditors in such form that such debtor can conveniently produce the same separately to his several creditors in satisfaction of their respective demands to the amounts specified in such receipts; and such receipts shall be sufficient evidence in favor of such debtor, to justify him in withholding the amount therein expressed from his next payment to his creditor; but such creditor may, upon giving to his debtor a full written receipt, acknowledging the payment to him of whatever sum may be actually paid, and accepting the amount of tax paid as aforesaid (specifying the same) as a further satisfaction of the debt to that amount, require the surrender to him of such collector's receipt.

AMENDMENT.

[PUBLIC RESOLUTION — NO. 15.]

Joint Resolution Extending from March first, eighteen hundred and ninety-five, to the fifteenth day of April, eighteen hundred and ninety-five, the time for making returns of income for the year eighteen hundred and ninety-four, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the time fixed by existing law for the rendering of income returns, to wit: "on or before the first Monday of March in every year" (Section thirty-five Act of August twenty-eight, eighteen hundred and ninety-four, and Section thirty-one hundred and seventy-three, Revised Statutes, as amended by Section thirty-four of that Act) is hereby extended, with reference only to returns of income for the year eighteen hundred and ninety-four, so that it shall be lawful to make such returns for that year on or before the fifteenth day of April, eighteen hundred and ninety-five.

Resolved, That in computing incomes under said Act the amounts necessarily paid for fire-insurance premiums and for ordinary repairs shall be deducted.

Resolved, That in computing incomes under said Act the amounts received as dividends upon the stock of any corporation, company, or association shall not be included in case such dividends are also liable to the tax of two per centum upon the net

profits of said corporation, company, or association, although such tax may not have been actually paid by said corporation, company, or association at the time of making returns by the person, corporation, or association receiving such dividends. And returns, or reports, of the names and salaries of employes shall not be required from employers, unless called for by the collector in order to verify the returns of employes.

Approved, February 21, 1895.

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APPENDIX.

Rulings under Present Law.

The instruction as to the income return by trustees must be held to mean, as it states, that the sum received from trustees by the beneficiaries should not be returned as "taxable income." The same should be, however, noted as income, or deducted as an amount upon which the tax has already been paid. The instruction refers practically to cases of beneficiaries who have income in addition to that received from a trustee, and is intended to prevent escape of income from taxation.

Where a trustee distributes taxable income to beneficiaries, he must make a return for each of said beneficiaries, as the taxable interests appear, at the place of his residence, without regard to the location of the beneficiaries. [See pp. 28–33.]

Paragraph 10, form 365, refers to the gain and profits of general partnerships, such as are clearly not associations or companies. Where the partnership is the main business of the individual, however, he shall extend the same under gross receipts in the separate items to which the various sources of income, if any, belong. [See p. 87.]

Where a husband engaged in business sustains losses in excess of his income, he cannot for the purpose of evading income tax, include the separate income of his wife as a part of said losses. Where the wife has a separate estate producing an income above the taxable limit, under her control, she must

make a return for the same, and of the profits derived therefrom without regard to the business losses of her husband.

The husband or father, as the head and legal representative of the household, can be required to make and render a return for himself, wife and minor children in the aggregate. For the purposes of this law it must be assumed that in all cases he can ascertain the amount of said incomes, and excepting cases where such incomes are controlled by a legal trustee, or other person duly appointed by court, it must be assumed that he has control of the same. In cases where the wife has a separate taxable income and manages her own business separately, she is required to make return of her income, and the same should be attached to the return of her husband in order that but one deduction of $4000 may be made from the aggregate income of all the members of the family. All the foregoing instructions would be applicable to cases where husband and wife live separately, unless they were divorced or separated by other operations of law, so as to break up the family relations.

When a trustee makes a return and pays the tax for a wife, making a deduction of $4000, the husband is not allowed to make another deduction of $4000 in making return for himself and his family, and should be required to so adjust the returns that but one deduction shouid appear on the returns of the aggregate incomes of all the members of his family, including that of his wife. The manner in which they may adjust the deduction or amount paid for taxes as between themselves is one in which the Government has no interest.